

**SUPPORTING STATEMENT  
(Form 2438)**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

A regulated investment company must file Form 2438 if any part of its undistributed capital gain income is designated under section 852(b)(3)(D) of the Internal Revenue Code. Form 2438 provides for the computation of undistributed capital gains and the capital gains tax on those gains designated under section 852(b)(3)(D).

**2. USE OF DATA**

The form provides the IRS with information necessary to determine whether the corporation figured its tax correctly on undistributed capital gains designated under section 852(b)(3)(D).

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

Low filing volume does not justify the cost of electronic enabling for Form 2438.

**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**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 2438.

In response to the **Federal Register Notice** (74 FR 25806), dated May 29, 2009, we received no comments during the comment period regarding Form 2438.

**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**

<b>Form Hours</b>	<b>Number of Responses</b>	<b>Time per Response</b>	<b>Total</b>
2438	100	9.76	976

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

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0144 to these regulations.

1.852-9

1.852-6

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

As suggested by OMB, our **Federal Register** notice dated May 29, 2009, 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**

The primary cost to the government consists of the cost of printing this form. We estimate that the cost of printing the form is \$503.

**15. REASONS FOR CHANGE IN BURDEN**

The total burden increased by 97 hours as a result of 4 lines added for the computation of tax on qualified timber gain at the temporary reduced rate of 15% under Code section 857(b)(3)(A)(ii) that was added by Act section 15311 of P.L. 110-246, *The Food, Conversation, and Energy Act of 2008*.

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

Not applicable.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

See attachment.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I**

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.

## **OMB EXPIRATION DATE**

**We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.**

**Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsoleted by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.**

**The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, at their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.**

**Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.**

**For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.**