

**SUPPORTING STATEMENT
(CO-30-92)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1501 of the Internal Revenue Code permits an affiliated group of corporations to file a consolidated income tax return. Section 1502 provides for the issuance of regulations so that the tax liability of a consolidated group and its members, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted in a manner that both clearly reflects income tax liability and prevents the avoidance of such liability.

Section 1.1502-31(e) allows former common parents of consolidated groups to irrevocably elect to treat all or any portion of a loss carryover as expiring for all Federal income tax purposes immediately before a group structuring change occurs as defined in §1.1502-31, provided the loss attributable to the former common parent is not included in the determination of its net asset basis.

Sections 1.1502-32, 1.1502-33 and 1.1502-76 apply to all consolidated groups. Section 1.1502-32 generally requires members to adjust their bases in stock of another member to reflect such other member's income, losses, expenses, and distributions. Section 1.1502-32(b)(4) enables a newly acquired corporation with a loss carryover from a separate return limitation year to make an irrevocable election to treat all or any portion of the loss carryover as expiring for all Federal income tax purposes immediately before the corporation becomes a member of the consolidated group.

Section 1.1502-33 generally requires members to adjust their earnings and profits to reflect the earnings and profits of lower tier members. For purposes of determining the members' respective earnings and profits, §1.1502-33 allows members to elect to allocate tax liability pursuant to prescribed methods so that members can be compensated for the absorption of their losses or credits by other members and the resulting reduction of consolidated tax liability.

Section 1.1502-76 contains rules for allocating income when

a corporation enters or leaves a consolidated group. Section 1.1502-76 generally allocates income items under a closing of the books method, but allows the group to elect to allocate specified items pursuant to a ratable method. Section 1.1502-76(b)(2)(iii) will allow the affected member of the consolidated group to make an election to ratably allocate the affected member's items solely for the month of its change in status.

2. USE OF DATA

The data required by §1.1502-32 is used by the consolidated group and the Internal Revenue Service to ensure that members make proper adjustments to the stock bases of other members and that the group thus recognizes the proper amount of gain or loss upon its sale of members' stock.

The data required by §1.1502-33 is used by the consolidated group to elect a method of allocating tax liability among its members for purposes of determining the members' earnings and profits.

The data required by §1.1502-76 is used by the group to allocate specified income items when a corporation enters or leaves a consolidated group pursuant to a ratable method in lieu of the generally applicable closing of the books method.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, 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.

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

We have been unable to reduce the burden specifically for small businesses. However, many consolidated groups are not small businesses, so the impact on small businesses should not be significant.

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 November 12, 1992 (57 FR 53634). The IRS received many comments on the proposed regulations addressing both policy and technical matters, and held public hearings on December 18, 1992, and March 4, 1993. After consideration of the comments and the statements made at the hearings, the proposed regulations were adopted as modified by the Treasury Decision. Additional elections were based on some of these comments. The final regulations were published in the **Federal Register** on August 15, 1994 (59 FR 41666).

We received no comments during the comment period in response to the **Federal Register Notice** (74 FR 20100), dated April 30, 2009.

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 1.1502-31(e) allows former common parents of consolidated groups to irrevocably elect to treat all or any portion of a loss carryover as expiring for all Federal income tax purposes immediately before a group structure change occurs as defined in §1.1502-31, provided the loss attributable to the former common parent is not included in the determination of its net asset basis. This election is not mandatory. The election provides relief to a group involved in a group structure change. The election must be made on a separate statement and must be filed with the consolidated group's return for the year that includes the group structure change. The statement must be signed by both the former common parent and the new common parent. We estimate that the number of taxpayers subject to this reporting requirement annually is 3,750, representing approximately one twentieth of the number of consolidated groups. It is estimated that the burden per respondent will be 30 minutes, representing the time necessary to make the election. Thus, the total burden will be 1,875 hours.

Section 1.1502-32(b)(4) enables a newly acquired corporation with a loss carryover from a separate return limitation year to make an irrevocable election to treat all or any portion of the loss carryover as expiring for all Federal income tax purposes immediately before the corporation becomes a member of the consolidated group. This election is not mandatory. The election is designed to provide relief to members with loss carryovers who join a consolidated group. The election must be made on a separate statement and must be filed with the consolidated group's return for the year the subsidiary becomes a member. We estimate that the number of taxpayers subject to this reporting requirement annually is 3,750, representing approximately one twentieth of the number of consolidated groups. It is estimated that the burden per respondent will be 30 minutes, representing the time necessary to make the election. Thus, the total burden will be 1,875 hours.

Section 1.1502-33(d)(5) provides an election for allocating tax liability among consolidated group members. The election must be filed with the group's first return. It is estimated that the number of taxpayers subject to this one-time reporting requirement is 37,124, representing approximately one half of the number of consolidated groups. It is

estimated that the one-time burden per respondent will be fifteen minutes, representing the time necessary to prepare the tax allocation election. It is estimated that the election, if made, will be filed only once. Thus, the one-time burden will be $(37,124 \times .25 \text{ hours}) = 9,281 \text{ hours}$.

Section 1.1502-76(b)(2)(ii)(D) provides an election to ratably allocate income items of a corporation that is entering or leaving a consolidated group. The election must be filed with the return of any group required to take the allocated income items into account. Alternatively, §1.1502-76(b)(2)(iii) allows the affected member of the consolidated group to make an election to ratably allocate the affected member's items solely for the month of its change in status. To make either of these elections, a separate statement must be filed with the affected consolidated groups' returns and signed by the affected parties. The latter election is designed to provide relief to members who join or leave consolidated groups in the middle of the month. It is estimated that the number of taxpayers subject to these reporting requirements annually will be 7,425, representing approximately one tenth of the number of consolidated groups. It is estimated that the burden per respondent will be 45 minutes, representing the time necessary to prepare one of the elections to allocate income items. Thus, the total annual burden will be $(7,425 \times .75 \text{ hours}) = 5,569 \text{ hours}$.

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 April 30, 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

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 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 obsolete 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, 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.