

SUPPORTING STATEMENT
(IRS Form 1120S, Schedule D, Schedule K-1, and Schedule M-3)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6037 of the Internal Revenue Code (IRC) requires every S corporation to make a return for each year. Section 1.6037-1 of 26 CFR requires that the return be filed on Form 1120S and its supporting schedules.

The corporation is required by 26 CFR 1.6037-1 to set forth items of gross income and the deductions allowable in computing taxable income. If the corporation has capital gain income (or loss) as defined in IRC section 1222, this income (or loss) must be reported on Schedule D (Form 1120S). Schedule D provides for the reporting of gain or loss from sales or exchanges of capital assets and the computation of tax on certain capital gains and built-in gains imposed by IRC section 1374. Schedule D is attached as a supporting statement to Form 1120S.

The corporation must also report the information required by 26 CFR 1.6037-1(a)(1) through (5). Generally, this information is reported on Schedule K of Form 1120S and each shareholder's distributable share is reported on Schedule K-1 (Form 1120S). A copy of Schedule K-1 is given to each separate shareholder to assist them in preparing their individual income tax returns.

The corporation must also report the information required by 26 CFR 1.6037-1(a)(5). Some of this information is reported on Schedule M-3 (Form 1120S). Generally, Schedule M-3 must be filed by S corporations with assets of \$10 million or more. Schedule M-3 provides for the reconciliation of financial accounting net income and taxable income in a standardized and detailed format. Schedule M-3 is attached as a supporting statement to Form 1120S.

2. USE OF DATA

Form 1120S data is used by the IRS to determine if income and other related tax items have been properly figured and reported. A corporation tax on certain net passive income is figured by the S corporation on an attachment for line 22a of Form 1120S. Schedule D (Form 1120S) is used to figure the corporation's section 1374 tax liability for the capital gains tax and/or built-in gains tax. Schedule D also provides IRS with information to determine if the tax liability for the capital gains tax and the built-in gains tax is figured correctly. Schedule K-1 (Form 1120S) provides IRS with information to determine if the individual shareholders of the corporation have properly reported their attributable shares of income or loss, deductions, credits, recapture tax, and information items on their individual income tax returns. Schedule M-3 is used for S corporations with assets of \$10 million or more, to reconcile financial accounting net income and taxable income in a standardized and detailed format.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently accepting electronic filing.

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 1120S, Schedule D, Schedule K-1, and Schedule M-3.

In response to the **Federal Register** notice dated July 30, 2009 (74 F. R. 38086) we received no comments during the comment period regarding Form 1120S, Schedule D, Schedule K-1, and Schedule M-3.

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

The burden estimate is as follows:

	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
Form 1120S	1,880,000	134.61	253,066,800
Schedule D	251,000	19.64	4,929,640
Schedule K-1	5,222,000	24.44	127,625,680
Schedule M-1	1,217,000	3.81	4,636,770
Schedule M-3	35,000	72.33	2,531,550
Schedule L	1,250,000	17.01	21,262,500
Sch. K-1 wrkst	<u>5,222,000</u>	1.32	<u>6,893,040</u>

Total 15,077,000 420,945,980

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

The following are related regulations which impose no additional burden. Please continue to assign OMB number 1545-0130 to these regulations:

Reporting Regulations:

- 1.6037-1
- 1.1375-1(d)(2)
- 18.1377-1
- 18.1379-1
- 1.6012-2(h)
- 301.6241-1T
- 1.3674-1A
- 18.1371-1
- 18.1378-1
- 18.1379-2

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

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

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution, and overhead for Form 1120S is \$15,819.

15. **REASONS FOR CHANGE IN BURDEN**

Changes were requested by the LMSB M-3 Team to clarify the proper reporting of information. Two new lines are added to Part III of the 2010 Schedule M-3 (Form 1120S). New line 29 requires the filer of the Schedule to enter research and development costs; new line 30 requires the filer to enter the amount taken as Section 118 exclusion. Former lines 29 and 30 are redesigned as lines 31 and 32. Purpose is compliance with IRC sections 174 and 118.

These changes result in a total burden increase of 85,050 hours.

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.