

SUPPORTING STATEMENT  
CO-93-90

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1.1502-20(a)(1) denies the deduction for loss recognized on the disposition by one member of a consolidated group of another member's stock. Section 1.1502-20(c)(1) provides an exception to the extent the loss exceeds certain adjustments, but only if the group claiming the deduction files the statement required by section 1.1502-20(c)(3) with its return disclosing the amount realized on the disposition, the amount of the loss recognized, and other information.

Section 1.1502-20(b)(1) requires the basis of a member's stock to be reduced to its fair market value before the deconsolidation of the stock. Section 1.1502-20(b)(5) disallows a deduction for loss recognized on the disposition of stock if the stock's basis has been reduced because of the stock's deconsolidation within 2 years of the sale, unless the consolidated group attaches a statement to the return in which the sale is reported disclosing the amount realized on the disposition, the amount of the loss recognized, and other information.

Section 1.1502-20(g)(1) allows a consolidated group's common parent to elect to retain the losses of a departing subsidiary to the extent a deduction for loss on the disposition of the stock otherwise would be denied. Section 1.1502-20(g)(5) requires that to make the election the common parent must file a statement providing certain information including: (1) the amount of loss recognized for which a deduction would be disallowed on the disposition of the subsidiary's stock, (2) the amount of consolidated net operating loss and net capital loss and the year of the subsidiary in which each arose, and (3) the portion of each loss that is to be attributed to the common parent under the election.

Section 1.1502-20(h)(2)(i) allows a consolidated group to elect to apply section 1.1502-20 to all dispositions and deconsolidations of consolidated stock after January 6, 1987, in lieu of sections 1.337(d)-1 and 1.337(d)-2. Section 1.1502-20(h)(2)(ii) requires that to make the election the consolidated group must file a statement to the effect that the group is making the election. The statement must be signed by the common parent of the group.

2. USE OF DATA

The information with respect to section 1.1502-20(c)(3) is necessary

to ensure that losses disallowed under sections 1.1502-20(a)(1) and 1.1502-20(c)(1) are not claimed.

The information with respect to section 1.1502-20(b)(5) is necessary to ensure that proper basis reductions are made to deconsolidated stock under section 1.1502-20(b)(1).

The information with respect to sections 1.1502-20(g) and 1.1502-20(h)(2) is necessary to allow the taxpayer to make certain elections that would benefit the taxpayer.

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

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

On March 9, 1990, a notice of proposed rulemaking (C0-78-87) and temporary regulations (C0-4-87 and T.D. 8294) concerning sections 1.1502-20 and 1.1502-20T were issued (55 FR 9426, March 14, 1990). A 60-day comment period was provided for and a public hearing was held on June 26, 1990. No comments were received regarding any of

the reporting requirements.

On November 19, 1990, temporary regulation section 1.1502-20T was withdrawn (C0-78-87 and T.D. 8319), and section 1.1502-20 was revised and repropose (C0-93-90) (55 FR 49,075, November 26, 1990). A 60-day comment period was provided for and a public hearing was held on January 25, 1991. No comments were received regarding any of the reporting requirements.

On September 19, 1991, section 1.1502-20 was made final (CO-93-90 and T.D. 8364) (56 FR 47,379, September 19, 1991). No changes were made to any of the reporting requirements.

We received no comments during the comment period in response to the **Federal Register** notice dated October 22, 2009 (FR 74 54627).

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 for section 1.1502-20(b)(5) is as follows:

It is estimated that 500 taxpayers annually will dispose of stock of a subsidiary within 2 years after the stock is deconsolidated under section 1.1502-20(b)(1) causing section 1.1502-20(b)(5) to apply. It is estimated that the average reporting burden will be 2 hours. The estimated frequency of responses is 1 time. Accordingly, the estimated annual reporting burden is 1000 hours.

The burden estimate for section 1.1502-20(c)(3) is as follows:

It is estimated that 1,000 taxpayers annually will dispose of stock of a subsidiary to which section 1.1502-20(a)(1) applies and claim a deduction for losses recognized on these dispositions under section

1.1502-20(c)(1). It is estimated that the average reporting burden will be 2 hours. The estimated frequency of responses is 1 time. Accordingly, the estimated annual reporting burden is 2000 hours.

The burden estimate for sections 1.1502-20(g)(1) and (5) is as follows: It is estimated that 1,000 consolidated groups annually will elect to retain losses of subsidiaries that are disposed of. It is estimated that the average reporting burden will be 2 hours. The estimated frequency of responses is 1 time. Accordingly, the estimated annual reporting burden is 2,000 hours.

The burden estimate for section 1.1502-20(h)(2) is as follows:

It is estimated that 500 consolidated groups annually will elect to apply section 1.1502-20 in lieu of sections 1.337(d)-1 and 1.337(d)-2 to their dispositions and deconsolidations of consolidated stock after January 6, 1987. It is estimated that the average reporting burden will be 2 hours. The estimated frequency of responses is 1 time. Accordingly, the estimated annual reporting burden is 1,000 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 October 22, 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.