

SUPPORTING STATEMENT
Revenue Procedure 97-48

20524. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Before the Small Business Job Protection Act of 1996 (Act) was enacted, an S corporation election was void if it was not received by the service center within the statutory time period. The Act provides the IRS with the authority to validate these late S corporation elections. Generally, the only method for obtaining relief for late S corporation elections is to file a private letter ruling with the National Office.

The revenue procedure provides taxpayers with late S corporation election relief for certain situations without requiring them to apply for a private letter ruling. The revenue procedure only applies to the following situations: (1) A corporation intends to be an S corporation, the corporation and its shareholders reported their income consistent with S corporation status for the year the S corporation election should have been made and for any subsequent year, and the corporation did not receive any notification from the IRS regarding any problem with the S corporation status within 6 months of that first year's timely filed Form 1120S; and (2) For periods prior to January 1, 1997, a corporation intends to be an S corporation; however, due to a late S corporation election the corporation was not permitted to be an S corporation for the first tax year (because late S corporation election relief was not available during this period), the corporation and the shareholders treated the corporation as an S corporation for all succeeding years, and all taxable years for both the corporation and all of its shareholders are open from the date they intended the corporation to be taxable as an S corporation.

The revenue procedure provides that taxpayers whose S corporation election was filed late (but meets the requirements of this revenue procedure) can obtain late S election relief by filing Form 2553 and attaching a statement explaining that the requirements of the revenue procedure have been met.

20525. USE OF DATA

The Service will use this information to satisfy the reasonable cause requirement of §1362(b)(5) of the Code. This revenue procedure is intended to provide relief for late S elections without requesting a private letter ruling.

20526. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. 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.

20527. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

20528. 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

Revenue Procedure 97-48 was published in the **Internal Revenue Bulletin** on October 27, 1997 (1997-43 IRB 19).

We received no comments during the comment period in response to the **Federal Register** notice (74 FR 57393), dated November 5, 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

Sections 4.01(2) and 4.02(2) of the revenue procedure require a taxpayer who filed a late S corporation election to send a completed Form 2553 with an attached statement as required by the revenue procedure; this procedure eliminates the need to apply for a private letter ruling. We estimate that approximately 100 taxpayers will prepare the attached statement and it will take approximately 1 hour to complete the statement. The total time estimate is 100 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 November 5, 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 revenue procedure 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.