

**SUPPORTING STATEMENT
(RP 2010-13)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Under section 469 taxpayers may group one or more activities together for purposes of determining whether the activities are passive or non-passive activities. A decision to group or not group together activities can have a substantial tax effect under section 469, which was enacted to prevent the proliferation of tax shelters. Although authorized under regulations, the IRS has yet to issue guidance requiring taxpayers to disclose to the IRS their chosen groupings. Because no guidance has been issued, IRS field personnel have had tremendous difficulty identifying a taxpayer's groupings, and many taxpayers have opportunistically claimed various groupings depending upon the most favorable tax outcome - undermining the purpose of section 469.

2. USE OF DATA

The IRS will retain the disclosed information so that IRS field personnel may consult it when a taxpayer is audited, for litigation purposes, and in other circumstances where the need to identify the taxpayer's chosen groupings is at issue.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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

We received no comments during the comment period in response to the Federal Register notice (75 FR 5851), dated February 4, 2010.

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 estimated number of annual respondents to whom this revenue procedure will apply is 144,000. The actual disclosure requirements are minimal. Taxpayers need only list the various activities that constitute the grouping and provide an EIN (if applicable) and address. Most taxpayers will only have a few activities. Thus, the estimated annual burden per respondent for the taxable years to which this revenue procedure applies varies from 10 minutes to 20 minutes, with an average of 15 minutes, though individual circumstances will vary. The estimated total annual reporting burden for the taxable years to which this revenue procedure applies is 39,000 hours. These estimates come

from Lucy Clark, former National Passive Activities Loss Technical Advisor.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated February 4, 2010, 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 were no changes made to the document that resulted in any change to the burden previously reported to 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 regulations sunset 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.