

SUPPORTING STATEMENT  
(TD 8649)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Under section 1258(a), gain generated by any position of a conversion transaction is treated as ordinary income to the extent of the applicable imputed income amount (AIIA). The (AIIA) is equal to the taxpayer's net investment in the transaction multiplied by the applicable rate, with certain adjustments. The applicable rate is generally 120 percent of the applicable Federal rate, determined as if the conversion transaction were a debt instrument.

Section 1258(a) may create a character mismatch because it focuses separately on each position of a conversion transaction and recharacterizes gain, but not loss. Section 1.1258-1(b)(1) of the regulations provides relief from this potential character mismatch in certain circumstances by allowing taxpayers to net gains and losses on the positions of certain conversion transactions for purposes of section 1258(a).

Under section 1.1258-1(b)(2) of the regulations, to be eligible for netting relief, the taxpayer must identify all the positions that are part of the conversion transaction. The identification must be made on the taxpayer's books and records before the close of the day on which the positions become part of the conversion transaction.

2. USE OF DATA

The data is used by the Internal Revenue Service to aid in administering the law and to prevent manipulation of the netting rules through the use of hindsight. This information will be used to determine whether the taxpayer has elected to net losses against gains before applying section 1258(a) and to verify that the taxpayer is properly reporting its conversion transactions that are subject to netting.

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 burden specifically for small businesses.

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

A notice of proposed rulemaking was published in the Federal Register on December 27, 1994 (59 FR 66498). A public hearing was not held because none was requested. The final regulations (TD 8649), were published in the Federal Register on December 21, 1995 (60 FR 66083).

We received no comments in response to the Federal Register notice (74 FR 60031), dated November 19, 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 1.1258-1(b)(2) of the regulations requires the taxpayer to identify all the positions that are part of the conversion transaction to be eligible for netting relief. We estimate that 50,000 investors will identify the positions of one or more conversion transactions and it will take them from 0.05 hour to 10.0 hours annually to make and retain identification, with an estimated average of 0.1 hour. The total burden for this recordkeeping requirement is 5,000 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 November 19, 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 these 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.