

SUPPORTING STATEMENT

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Prior to the enactment of section 469(c)(7)(A), all rental activities were deemed to be passive activities for purposes of section 469. Under section 469(c)(7), an exception to this rule is made for certain taxpayers that qualify for treatment under this provision. Accordingly, if a taxpayer that qualifies for treatment under section 469(c)(7) materially participates in the rental real estate activities, those activities will not be passive activities for purposes of section 469 for that taxable year. In determining whether a taxpayer materially participates in a rental real estate activity, section 469(c)(7)(A) provides that each interest in rental real estate of a taxpayer will be treated as a separate activity unless the taxpayer makes an election to treat all interests in rental real estate as a single activity.

Under section 1.469-9(g) of the regulations, a taxpayer must file a statement with the taxpayer's original income tax return for a taxable year in which the taxpayer chooses to make the election to treat all interests in rental real estate as a single activity under section 469(c)(7)(A). This statement must contain a declaration that the taxpayer qualifies for treatment under section 469(c)(7) for that year and that the taxpayer is making the election under section 469(c)(7)(A).

2. USE OF DATA

The information is used by the Internal Revenue Service to aid in the administration of the law and to determine whether a taxpayer that qualifies for treatment under section 469(c)(7) has made the election to treat all of the taxpayer's interests in rental real estate as a single activity as provided in section 469(c)(7)(A).

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 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

The notice of proposed rulemaking was published in the **Federal Register** on January 10, 1995 (60 FR 2557). A public hearing was held on May 11, 1995. The final regulations (TD 8645), were published in the **Federal Register** on December 22, 1995 (60 FR 66496).

We received no comments during the comment period 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 return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED ANNUALIZED COSTS TO THE GOVERNMENT AND RESPONDENTS

The burden estimate is as follows:

Total	Number of <u>Responses</u>	Time per <u>Response</u>
<u>Hours</u> TD 8645 3,015	20,100	9 min.

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

13. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.469-9(g) of the regulations requires the taxpayer to file a statement with its original income tax return for a taxable year, if the taxpayer chooses to make the election under section 469(c)(7)(A) to treat all of the taxpayer's interests in rental real estate as a single activity for purposes of section 469. This statement must contain a declaration that the taxpayer qualifies for treatment under section 469(c)(7) for the taxable year in which the election is made and that the taxpayer is making the election under section 469(c)(7)(A). This election is binding once made, unless there is a material change in the taxpayer's facts and circumstances in which case the taxpayer may revoke the election by filing a subsequent statement in the year of the material change. This statement to revoke an election must contain a declaration that the taxpayer is revoking the election under section 469(c)(7)(A) and an explanation of the nature of the material change. We estimate that 20,100 taxpayers will make or revoke the election under section 469(c)(7)(A), and it will take them from 0.10 to 0.25 hours to file the statement, with an estimated average of 0.15 hours. The total burden for this reporting requirement is 3,015 hours.

14. 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 the cost burdens are not available at this time.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the regulation 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.