

## SUPPORTING STATEMENT

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1361(b)(3)(B) provides that an S corporation must elect to treat an otherwise eligible subsidiary as a "qualified subchapter S subsidiary" (QSSS). If such an election is made, the subsidiary is disregarded for federal tax purposes.

Section 1361(b)(3)(C) provides that, upon termination of a QSSS, a new corporation is formed.

Section 1362(d)(3)(F) provides that the term "passive investment income" does not include dividends received by an S corporation from an 80 % owned subsidiary to the extent those dividends are attributable to the earnings and profits of the C corporation derived from the active conduct of a trade or business.

### 2. USE OF DATA

The Service will use the information collected to determine the proper tax treatment of corporate subsidiaries of S corporations.

### 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 CPR 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 April 26, 1998 (63 FR 19864). A public hearing was held on October 14, 1998. The final regulations were published in the Federal Register on January 25, 2000 (65 FR 3843).

We received no comments during the comment period in response to the **Federal Register** notice (75 FR 5859), 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 USC6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.1361-3(a)(1) requires a parent S corporation to submit an election form to obtain QSSS treatment for an otherwise eligible subsidiary. The paperwork burden for this requirement will be reflected on Form 8869.

Section 1.1361-3(b)(1) allows a parent S corporation to revoke a QSSS election with respect to a subsidiary by submitting a revocation statement to the appropriate service center. This statement must include the names, addresses, and taxpayer identification numbers of both the parent S corporation and the QSSS. The statement must be signed by a person authorized to sign the parent's tax return. We estimate that approximately 60 S corporations will revoke QSSS elections with respect to a subsidiary in a given year. The revocation

statement should take no longer than 10 minutes per respondent to prepare. The total burden for this provision is 10 hours.

Section 1.1361-5(a)(2) requires an S corporation to include, with its tax return for the year in which a subsidiary's QSSS election terminates (other than by revocation), a statement notifying the IRS of the termination of the subsidiary's QSSS statement. We estimate that approximately 600 S corporations will be required to submit this statement each year. The statement should take no longer than 10 minutes per respondent to prepare. The total burden for this provision is 100 hours.

Section 1.1362-8 requires S corporations to perform certain calculations to receive the benefit of a recharacterization of certain types of income. We estimate that 10,000 S corporations will choose to perform these calculations. The average burden per taxpayer varies from 30 minutes to 1.5 hours, depending on individual circumstances, with an estimated average of 1 hour. The total burden for this provision is 10,000 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 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 is no change in the burden previously reported to OMB. This submission is for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable

17. REASONS WHY DISPLAYING 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 83-1

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 USC 6103.