

U.S. Department of Treasury
Internal Revenue Service

Supporting Statement

OMB Control No. 1545-2147

RP 2009-37 – Internal Revenue Code Section 108(i) Election;
REG-144762-09 (TD 9498) – Application of Section 108(i) to
Partnerships and S Corporations

Summary of Action

BACKGROUND: On August 13, 2010, IRS published temporary regulations relating to the application of section 108(i) of the Internal Revenue code to partnerships and S Corporations in the *Federal Register* (75 FR 49380); as well as the corresponding notice of proposed rulemaking cross-referencing those temporary regulations published in the same issue (75 FR 49427).

Burden associated with the section 108(i) election is currently approved under this OMB number covered under Revenue Procedures (RP) 2009-37. This temporary regulation codified requires for this election for partnerships and S corporations and no change to the currently approved burden.

We are submitting this ICR action to OMB as a revision, which would allow us to identify this rule under the “associated rulemaking information” section of ROCIS. This option is not available via a non-material, non-substantive change because this rulemaking section “grayed-out” and unavailable.

To accurately identify this rulemaking action and incorporate it into this ICR, we are submitting this request as a revision.

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1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 108(i)(5)(B) of the Internal Revenue Code (section 1231 of ARRA) allows a taxpayer to elect to defer for up to 5 years the taxation of certain income arising from cancellations in 2009 or 2010 of certain debt instruments. The taxpayer must then include the deferred amount in income ratably over 5 years. Certain deductions also may be deferred. The election is voluntary, but the statute requires an electing taxpayer to attach a statement to the taxpayer's tax return that clearly identifies the debt instrument, the amount of income deferred, and other information the Secretary may prescribe.

Temporary regulation section 1.108(i)-2T provide rules for partnerships and S corporations regarding the application of section 108(i) of the Internal Revenue Code. Section 4.07(3) of Rev. Proc. 2009-37 requires a partner in a partnership that makes an election under section 108(i) to provide certain information to the partnership so that the partnership can determine the partner's deferred section 752 amount (partner reporting requirement). Section 1.108(i)-2T(c)(3)(iv) have the same partner reporting requirement that is in Rev. Proc. 2009-37. As a result, there is no change to the currently approved burden under this control number.

2. USE OF DATA

The data collected will provide the Secretary with the information necessary to track the respondents deferred income and deductions.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The electronic submission of the information is permitted.

4. EFFORTS TO IDENTIFY DUPLICATION

Not applicable.

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

Periodic meetings are held between IRS personnel and representatives of various professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding the collection requirements under this revenue procedure.

A NPRM was published on August 13, 2010, in the *Federal Register* at 75 FR 49427 inviting comments on temporary regulation published in the same issue at 75 FR 49380.

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

IC	Number of Respondents	Hours per Response	Total Hours
RP 2009-37	25,000	6	150,000
TD 9498	25,000	6	150,000
Total	50,000		300,000

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

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The collection of information does not require a form. Therefore, the estimated annualized cost to the government is minimal or none.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the estimated burden currently approved. This revision is due to the issuance of temporary regulations through rulemaking published in the *Federal Register* on August 13, 2010 (75 FR 49380) to codify reporting requirements of partnerships and S corporations; this action incorporates this rule with this ICR.

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 guidance sunsets as of the expiration date.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB PRA SUBMISSION FORM

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.