

**SUPPORTING STATEMENT**  
**(Form 8716)**  
**OMB No. 1545-1036**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Generally, prior to the enactment of legislation on December 22, 1987, that added Code section 444, a partnership (files Form 1065), an S corporation (files Form 1120S), or a personal service corporation (files Form 1120) must have the same tax year as its principal partners or shareholders. As most partners and shareholders are individuals and file their returns on calendar tax years, then most partnerships, S corporations, and personal service corporations had to file Forms 1065, 1120S, and 1120 on a calendar tax year (required tax year). Code section 444(a) provides that partnerships, S corporations, and personal service corporations may make a one-time election to have or file on a tax year other than a required tax year.

Form 8716 provides for making the section 444 election. The instructions for the form also explain that partnerships and S corporations that make the Form 8716 election must file Form 8752, Required Payment or Refund Under Section 7519, and in certain cases make tax payments as required by section 444(c)(1). Section 444(c)(2) provides that electing personal service corporations are subject to section 280H limitations. Section 280H limits the electing personal service corporation's deductions for payments made to employee-owners on their returns for fiscal tax years beginning after 12/31/86.

**2. USE OF DATA**

Form 8716 provides IRS with information to determine that the section 444(a) election is properly made. It also identifies the tax year to be retained, changed, or adopted under section 444. When the election is accepted, the Service Center assigns a master file code that allows the electing entity to file Form 1065, 1120S, or 1120 with a fiscal tax year that would otherwise not be acceptable. A Form 8752 follow-up control code is also assigned for partnerships and S corporations to alert the Service Center to the partnership's or S corporation's responsibility to file Form 8752 for each tax year the section 444 election is in effect.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

Form 8716 does not involve the use of automated, electronic, or other technological collection techniques.

**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**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8716.

In response to the **Federal Register Notice** dated March 12, 2010 (75 FR 11994), we received no comments during the comment period regarding Form 8716.

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**

<u>Form</u>	<u>No. of Responses</u>	<u>Time per Response</u>	<u>Total hours</u>
Form 8716	40,000	5.11	204,400

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

The following regulations impose no additional burden. Please continue to assign OMB number 1545-1036 to these regulations:

1.444-3T(b)(1)	1.444-3T(b)(3)(i)
1.444-3T(c)(2)(ii)	1.444-3T(b)(2)(ii)
1.7519-2T(a)(2)(i)	1.6081-3T

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register** notice dated March 12, 2010 (75 FR 11994), 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 responses 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**

The primary cost to the government consists of the cost of printing the form. We estimate that the cost of printing the form is \$601.

**15. REASONS FOR CHANGE IN BURDEN**

There are no changes being made to the form at this time. We are making this submission for renewal purposes.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

Not applicable.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

See attachment.

**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.