

Supporting Statement
Application of Section 338 to Insurance Companies
OMB No. 1545-1990

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

These regulations apply to a deemed sale or acquisition of an insurance company's assets pursuant to an election under section 338 of the Internal Revenue Code, to a sale or acquisition of an insurance trade or business subject to section 1060, and to the acquisition of insurance contracts through assumption reinsurance; regulations under section 381 concerning the effect of certain corporate liquidations and reorganizations on certain tax attributes of insurance companies, and regulations under section 197 relating to the determination of adjusted basis of amortizable section 197 intangibles with respect to insurance contracts, section 338 relating to increases in reserves after a deemed asset sale and sections 338 and 846 relating to the effect of a section 338 election on a section 846(e) election.

2. USE OF DATA

This information is required by the IRS to allow an insurance company permission to cease using its historical loss payment pattern and to allow parties to a transaction under section 338, to an applicable asset acquisition under section 1060, or to a distribution or reorganization to which section 381 applies to file a retroactive election to apply these regulations to transactions completed before the effective dates of these regulations. These recordkeeping requirements apply to insurance companies.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Companies may attach statements (unsigned) to their income tax return for an open year.

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

The collection of information will not burden small businesses or other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR PLOICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. COLLECTION 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, REG-146384-05 (71 FR 18053), was published simultaneously with final and temporary regulations (71 FR 17990), as TD 9257, on April 10, 2012, which provided the public a 60-day period in which to review and provide public comments relating to any aspect of the regulation. No written comments were received. A final regulation and removal of temporary regulations was published in the *Federal Register* on January 23, 2008 (73 FR 3868) as TD 9377.

In response to the *Federal Register* notice (77 FR 20884), dated April 6, 2012, we received no comments during the comment period regarding REG-146384-05 (T.D. 9257; 9377).

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

The collection of information is in §§1.338-11(e)(2), 1.338(i)-1(c), 1.381(c)(22)-1(c) and 1.1060-1(a)(2) of the regulations. The collection of information in these final regulations will allow an insurance company permission to cease using its historical loss payment pattern and to allow parties to a transaction under section 338, to an applicable asset acquisition under section 1060, or to a distribution or reorganization to which section 381 applies to file a retroactive election to apply these regulations to transactions completed before the effective dates of these regulations.

# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Total Burden
12	1	12	1	12

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated (77 FR 20884), dated April 6, 2012, 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 ANUALIZED 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.

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. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: the following paragraph applies to all of the information collections 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 control number assigned by the Office of Management and Budget. 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.