

**SUPPORTING STATEMENT**  
**Revenue Procedure 2009-16 & 2009-33**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 3081(a) of the Housing and Economic Recovery Act of 2008 (the “Act”) amended section 168(k) of the Internal Revenue Code (the “Code”) by adding new section 168(k)(4). Section 168(k)(4)(A) requires a corporation to make an election to apply section 168(k)(4). Section 168(k)(4)(E)(i) requires the Secretary of the Treasury (or his delegate) to prescribe the time and manner of allocating the bonus depreciation amount resulting from the section 168(k)(4) election. Section 3081(b)(1) of the Act requires a U.S. automobile manufacturing partnership (such as, Chrysler) to make the election to apply section 3081(b) of the Act.

Revenue procedure 2009-16 provides the time and manner for (1) corporations to make the election to apply section 168(k)(4) of the Code, (2) corporations to make the allocation of the bonus depreciation amount resulting from the section 168(k)(4) election, (3) corporate partners who make the section 168(k)(4) election to notify partnerships, and (3) U.S. automobile manufacturing partnerships (such as, Chrysler) to make the election to apply section 3081(b) of the Act.

Revenue procedure 2009-33 provides guidance under § 1201(b) of the American Recovery and Reinvestment Tax Act of 2009, Div. B of Pub. L. No. 111-5, 123 Stat. 115 (February 17, 2009) (the Act). Section 1201(b) of the Act amends § 168(k)(4) of the Internal Revenue Code to allow corporations to elect not to claim the 50-percent additional first year depreciation deduction provided by § 168(k)(2) for certain property placed in service generally before January 1, 2010, and instead to increase their business credit limitation under § 38(c) and alternative minimum tax (AMT) credit limitation under § 53(c). Specifically, this revenue procedure provides guidance to corporations regarding the property eligible for this election, the time and manner for making the elections provided by new § 168(k)(4)(H), and the computation of the amount by which the business credit limitation and AMT credit limitation may be increased if the elections provided by § 168(k)(4)(H) are or are not made.

2. USE OF DATA

The information will be used by revenue agents to determine if the taxpayer is entitled to claim (1) the refundable tax credits allowed as a result of making the election to apply section 168(k)(4) of the Code, and (2) the refundable deemed tax payments allowed as a result of making the election to apply section 3081(b) of the Act.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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

Revenue Procedure 2009-16 was published in the Internal Revenue Bulletin on February 9, 2009. Revenue Procedure 2009-33 was published in the Internal Revenue Bulletin on July 20, 2009.

In response to the Federal Register notice (77 FR 43660), dated July 25, 2012, we received no comments during the comment period regarding these proposed and temporary regulations.

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 collections of information are in sections 3, 4, 5, and 7 of this revenue procedure. Taxpayers are required to elect to apply section 168(k)(4) of the Code to claim refundable tax credits. Taxpayers also are required to elect to apply section 3081(b) of the Act to claim refundable deemed tax payments. The information will be used to verify that a taxpayer is entitled to claim these refundable amounts. The estimated total annual burden is 2700 hours. The estimated annual burden per respondent varies from .25 to 1 hour, depending on individual circumstances, with an estimated average of 0.5 hours. The estimated number of respondents is 5400.

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 July 25, 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 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

Not applicable.

15. REASON FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

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 notice 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.

**Note:** This is an emergency submission.