

1SUPPORTING STATEMENT
REG-102822-08

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collection of information is in § 1.108-7(d)(4) of the Income Tax Regulations. Section 108(a) of the Internal Revenue Code provides an exclusion from gross income for income from discharge of indebtedness (COD income) if the discharge occurs in certain situations. Taxpayers must reduce tax attributes as provided in § 108(b) for certain types of excluded COD income. For S corporations, § 108(d)(7)(A) provides that the tax attribute reduction under § 108(b) is performed at the corporate, rather than shareholder level. Section 108(d)(7)(B) provides that a particular shareholder level tax attribute (losses and deductions suspended under § 1366(d)) is treated as a corporate level tax attribute for purposes of the tax attribute reduction under § 108(b). The collection of information required is that, for taxable years in which an S corporation excludes COD income under § 108(a), each shareholder of the S corporation during the taxable year of the discharge must provide to the S corporation the amount of the shareholder's relevant tax attribute. This information will be used by the S corporation to perform the tax attribute reduction under § 108(b). Furthermore, the S corporation must provide to each shareholder the amount of any of the S corporation's excess tax attribute pursuant to § 1.108-7(d)(2).

2. USE OF DATA

The information will be used by the S corporation to make adjustments that are required under § 108(b). The information will be used by the shareholders to determine their tax liability in succeeding taxable years.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publication, 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 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

A notice of proposed rulemaking and a notice of public hearing (REG-102822-08, 2008-38 I.R.B. 744) were published in the *Federal Register* (73 FR 45656) on August 6, 2008, proposing amendments to the regulations regarding the manner in which an S corporation reduces its tax attributes under section 108(b) for taxable years in which the S corporation has discharge of indebtedness income that is excluded from gross income under section 108(a).

These final regulations were adopted per TD 9469 on October 30, 2009, at 74 FR 56109 [2009-48 IRB 687].

A 60-day notice was published in the *Federal Register* on May 1, 2012 (77 FR 25783) provided the public a comment period in which to review and provide public comments on the information collection contained in TD 9469. No comments were received.

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 burden for collection of information is in §1.108-7(d)(4). If an S corporation excludes COD income from gross income under section 108(a) for a taxable

year, each shareholder of the S corporation during the taxable year of the discharge must provide to the S corporation the amount of the shareholder's losses and deductions that are disallowed for the taxable year of the discharge under section 1366(d)(1).

We estimate that there are 1,000 S corporations and shareholders which will be affected by discharge of indebtedness income that is excluded from gross income under section 108(a). We estimate that it will take an average of 1 hour for each S corporation or shareholder to comply with the recordkeeping requirements in §1.108-7(d)(4) for a total burden estimated to be 1,000 hours.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

This 60-day notice was published on May 1, 2012 (77 FR 25783), giving the public opportunities to make 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 are no changes to the taxpayer 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 regulations sunset 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.