SUPPORTING STATEMENT
TD 9490

1. <u>CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION</u>

On June 23, 2010, the Treasury Department issued T.D. 9490 which promulgated new temporary regulations under IRC § 1502 to provide consolidated return filers with guidance in applying the five-year extended net operating loss carryback provision of IRC § 172(b)(1)(H), in response to the issues left unresolved by Rev. Proc. 2009-52.

This information is required to document the taxpayer's election to carry back 5 years all or a portion of its consolidated net operating loss, which taxpayers are allowed to elect to do under section 172 (b)(1)(H), as amended by the Worker Homeownership, and Business Assistance Act of 2009 ("WHBAA") that the President signed on November 6, 2009 (Pub. L. 111-92).

2. <u>USE OF DATA</u>

The data will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with their elections. The collection of information is required to obtain a benefit. The respondents are corporations filing consolidated returns.

3. <u>USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN</u>

Taxpayers will file the election electronically with their returns.

4. <u>EFFORTS TO IDENTIFY DUPLICATION</u>

We have attempted to eliminate duplication within the agency wherever possible.

5. <u>METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES</u>

Not applicable. This election is only available to corporations filing consolidated returns.

6. <u>CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES</u>

Not applicable.

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

Not applicable.

8. <u>CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS</u>

In response to the Federal Register Notice dated November 16, 2012 (77 F.R. 68888), we received no comments during the comment period regarding TD 9490.

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

This regulation will allow taxpayers to elect to carry back a consolidated net operating loss 5 years, instead of the 2 years previously allowed. Thus, respondents will benefit by making this election. It is estimated that there will be 4,000 respondents. Each response will take 15 minutes, resulting in a total burden of 1,000 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested OMB, our Federal Register Notice dated November 16, 2012 (77 FR 68888), requested public comments on estimates of cost burden that are not captured on the estimates of burden hour, 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 cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the Federal Government.

15. REASONS FOR CHANGE IN BURDEN

Not applicable.

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 revenue procedure 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. <u>EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I</u>

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.

OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplied owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.