

SUPPORTING STATEMENT
OMB#1545-1324
Final Regulations T.D. 8530 (CO-88-90)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 382(l)(5)(H) of the Internal Revenue Code provides that a loss corporation may elect not to have section 382(l)(5) apply. If a loss corporation elects not to have section 382(l)(5) apply, section 382(l)(6) will apply. The election required by section 382(l)(5)(H) and implemented by section 1.382-9(i) of the regulations is necessary to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes. Similarly, the election under section 1.382-9(p)(2) of the regulations to apply the regulations retroactively is necessary to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes.

2. USE OF DATA

For purposes of electing not to have section 382(l)(5) of the Code apply to an ownership change, a loss corporation must attach the following statement to the tax return of the loss corporation for the taxable year in which the ownership change occurs: "THIS IS AN ELECTION UNDER § 1.382-9(i) NOT TO APPLY THE PROVISIONS OF SECTION 382(l)(5) TO THE OWNERSHIP CHANGE OCCURRING PURSUANT TO A PLAN OF REORGANIZATION CONFIRMED BY THE COURT ON [INSERT CONFIRMATION DATE]." Section 382(l)(5) will determine the amount and utilization of certain corporate tax attributes after an ownership change if the loss corporation does not timely file such an election and section 382(l)(5) otherwise applies.

For purposes of electing to have the provisions of the final regulations apply before the general effective date of the final regulations, a loss corporation must attach the following statement (including any extensions of time) of the loss corporation's tax return for the taxable year which includes the change date or the date that the loss corporation files its first tax return after March 17, 1994: "THIS IS AN ELECTION TO APPLY §§1.382-3(j), (k), (l), (m) (2), AND (n)(2) OF THE INCOME TAX REGULATIONS TO THE

OWNERSHIP CHANGE OCCURRING PURSUANT TO A PLAN OF REORGANIZATION CONFIRMED BY THE COURT ON [INSERT CONFIRMATION DATE]."

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN
IRS Publications, 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

These regulations were published in the **Federal Register** as a Notice of Proposed Rulemaking on August 6, 1992 (57 FR 34736). No public hearing was held as none was requested. Final regulations (TD 8530), were published in the **Federal Register** on March 18, 1994 (59 FR 12840).

In response to the **Federal Register Notice** dated September 27, 2013 (78 FR 59768), we received no comments during the comment period regarding CO-88-90.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “ Business Master File (BMF) ” , “Corporate Data Initiative (CDI)” system and Privacy Act System of Records notices (SORN) has been issued for these systems under Treasury/IRS 24.030–Customer Account Data Engine Individual Master File; Treasury/IRS 24.046-Business Master File and IRS 34.037–IRS Audit Trail and Security Records System, Treasury/IRS 42.001-Examination Administrative File; Treasury/IRS 42.021-Compliance Programs and Project Files. The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.382-9(i) requires that a loss corporation electing not to have section 382(l)(5) of the Code apply to an ownership change must file a statement evidencing this election with its tax return. It is estimated that 250 respondents will spend 15 minutes each to file the election. The reporting burden for this requirement is 63 hours. Section 1.382-9(p)(2) requires that a loss corporation electing to apply the provisions of the regulations retroactively must file a statement evidencing this election with its tax return. It is estimated that 3,000 respondents will spend 15 minutes each to file the election. The reporting burden for this requirement is 750 hours.

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 September 27, 2013, 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 ANNUALIZED 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. We are making this submission to renew the OMB approval.

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.

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 supplies 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.