

1SUPPORTING STATEMENT
(T.D. 8121- Designated by TD 8455, as amended by TD 9146 and TD 9209)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 179 of the Code provides an election for taxpayers to expense the cost or portion of the cost of certain depreciable business assets placed in service in a taxable year. Section 179(b) provides dollar and taxable income limitations on the amount that may be expensed for any taxable year. Section 179(b)(4) provides that married individuals filing separately must each use half of the total amount of the dollar limitation, unless they elect otherwise. Section 1.179-2(b)(6) of the regulations provides rules for this election.

These documents contain final regulations relating to the election to expense the cost of property subject to section 179 of the Internal Revenue Code (Code). The regulations reflect changes to the law made by section 202 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 and section 201 of the American Jobs Creation Act of 2004.

2. USE OF DATA

The information required by section 1.179-2(b)(6) of the regulations will be used by the Internal Revenue Service to insure that married individuals filing separate returns properly allocate the cost of section 179 property elected to be expensed in a taxable year.

The information required by section 1.179-2(b)(7)(ii) of the regulations will be used by the Internal Revenue Service to insure that the dollar limitation is properly apportioned among the component members of a controlled group.

The information required by section 1.179-3(e) of the regulations will be used by the Internal Revenue Service to insure that taxpayers use their carryover of disallowed deduction in the proper order.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

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. Also, the Office of Management and Budget will search the Federal Information Locator System.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities.

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 was published in the **Federal Register** on March 28, 1991 (56 FR 12868), which provided the general public with a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulations. A public hearing was held on August 8, 1991. TD 8455 was published in the **Federal Register** on December 24, 1992 (57 FR 61313).

On August 4, 2004, the IRS and Treasury Department published temporary regulations (TD 9146) in the Federal Register (69 FR 46982) relating to the election to expense the cost of property subject to section 179 of the Code. The temporary regulations reflected changes to the law made by section 202 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), Public Law 108-27 (117 Stat. 752). On the same date, the IRS published a notice of proposed rulemaking (REG-152549-03) cross-referencing the

temporary regulations in the Federal Register (69 FR 47043). No comments were received from the public in response to the notice of proposed rulemaking and no public hearing was requested or held.

On July 13, 2005 (70 FR 40189), TD 9209 was published.

In response to the **Federal Register** notice (79 FR 7741), dated February 10, 2014, we received no comments during the comment period regarding these 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 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 “Individual Master File (IMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.030--Custer Account Data Engine Individual Master File, formerly Individual Master File and IRS 34.037--IRS Audit Trail and Security Records System.

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

Estimated number of respondents and/or recordkeepers: 4,025,000.

The estimated annual burden per respondent/recordkeeper varies from .50 to 1 hour, with an estimated average of: .75 hour.

Estimated total annual reporting and/or recordkeeping burden: 3,015,000 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 February 10, 2014, 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 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 to these existing regulations. However, we are updating the reported OMB burden estimates to be consistent with what was provided in the regulations.

This submission is 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 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. 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.