

SUPPORTING STATEMENT

1545-2183

Transfers by Domestic Corporations That Are Subject to Section 367(a)(5); Distributions by Domestic Corporations That Are Subject to Section 1248(f). (TD 9614 & 9615)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

TD 9614 contains final and temporary regulations that apply to transfers of certain property by a domestic corporation to a foreign corporation in certain nonrecognition exchanges, or to distributions of stock of certain foreign corporations by a domestic corporation in certain nonrecognition distributions. The final regulations also establish reporting requirements for property transfers and stock distributions to which the final regulations apply. The regulations affect domestic corporations that transfer property to foreign corporations in certain nonrecognition transactions, or that distribute the stock of certain foreign corporations in certain nonrecognition distributions, and certain domestic shareholders of those domestic corporations.

The collections of information are in §§ 1.367(a)–7(c) and (e)(2), 1.367(a)–8(c), 1.1248(f)–2(a)(3), (b)(1) and (c)(1), and 1.6038B–1(c)(6). The collections of information are mandatory. The likely respondents are domestic corporations.

TD 9615 contains final and temporary regulations. These regulations eliminate one of two exceptions to the coordination rule between asset transfers and indirect stock transfers for certain outbound asset reorganizations. The regulations also modify the third exception to the coordination rule for certain outbound exchanges so that this exception is consistent with the remaining asset reorganization exception. In addition, the regulations modify, in various contexts, procedures for obtaining reasonable cause relief. Finally, the regulations implement certain changes with respect to transfers of stock or securities by a domestic corporation to a foreign corporation in a section 361 exchange. The regulations primarily affect domestic corporations that transfer property to foreign corporations in certain outbound non-recognition exchanges. The text of the temporary regulations serves as the text of the proposed regulations (REG–132702–10).

The collections of information are in §§ 1.367(a)–3(d)(2), 1.367(a)–3T(e)(3) and (e)(6), 1.367(a)–7(e), 1.1248(f)–3T, and 1.6038B–1T(f). The collections of information are mandatory. The likely respondents are domestic corporations.

USE OF DATA

The regulations affect domestic corporations that transfer property to foreign corporations in certain transactions (exchanges described in section 361(a) or (b) (section 361 exchange), or that distribute the stock of certain foreign corporations, and certain shareholders of such domestic corporations. The proposed regulations are necessary, in part, to provide guidance on changes to the law made by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647, 102 Stat. 3342). The

information and data that is collected will be used to verify that the reporting requirements for property transfers and stock distributions to which the final regulations are being met.

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 CFE 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

On August 20, 2008, the IRS and Treasury Department issued proposed regulations under sections 367, 1248, and 6038B of the Code concerning transfers of property by a domestic corporation to a foreign corporation in an exchange described in section 361(a) or (b) (section 361 exchange), and certain nonrecognition distributions of stock of a foreign corporation by a domestic corporation (REG-209006-89;73 FR 49278, 2008-41 IRB 867). A correction to the proposed regulations was published on September 29, 2008, in the Federal Register (73 F.R. 56535). No public hearing on the proposed regulations was requested or held; however, numerous comments were received. After considering the comments received, the IRS and Treasury Department adopt the 2008 proposed regulations, with modifications, as final regulations.

In response to the Federal Register notice dated September 26, 2014, (79 FR 58048) we received no comments during the comment period regarding (REG-209006-89),

TD 9614 (Final), and TD 9615 (Temp).

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 U.S.C. 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)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under Treas/IRS 24.046-Customer Account Data Engine Business Master File and Treas/IRS 34.037 Audit Trail and Security Records System. 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

Number of Responses	Time per Response	Total Hours
305	10.69 hrs.	3,260

The likely respondents are domestic corporations. 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 26, 2014, (79 FR 58048), requested public comments on estimated 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 burden. The agency is submitting this request as an extension without change of a currently approved collection.

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

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.