

SUPPORTING STATEMENT
Consolidated Returns--Limitations on the Use of Certain Losses
and Deductions
TD 8823
1545-1237

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Treasury Decision 8823 contains final regulations regarding certain deductions and losses, including built-in deductions and losses, of members who join a consolidated group. The regulations provide rules for computing the limitation with respect to separate return limitation year (SRLY) losses, and the carryover or carryback of losses to consolidated and separate return years. The regulations also eliminate the application of the SRLY rules in certain circumstances in which the rules of section 382 of the Internal Revenue Code also apply.

The collection of information in this regulation is in §1.1502-21(b)(3). This information is required to ensure that an election to relinquish a carryback period is properly documented, and will be used for that purpose. The collection of information is required to obtain a benefit (relating to the carryover of losses which would otherwise be carried back). The likely respondents are consolidated groups.

2. USE OF DATA

The data is used by the consolidated group and the Internal Revenue Service to ensure that the election to relinquish a carryback period is properly made.

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

There are no small entities affected by this collection.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

This information is required to ensure that an election to relinquish a carryback period is properly documented, and will be used for that purpose. The collection of information is required to obtain a benefit (relating to the carryover of losses which would otherwise be carried back). If the information is not collected annually, benefits may be granted in which the group is not entitled too which would negatively affect federal programs.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

Proposed regulations (CO-78-90) were published in the Federal Register on February 4, 1991 (56 FR 4228), and a public hearing was held on April 8, 1991. On January 27, 1996, the notice of proposed rulemaking (CO-78-90) was withdrawn and was reissued as a new notice of proposed rulemaking, CO-24-96 (61 FR 33311) by cross-reference to temporary regulations (61 FR 33321) identical to the proposed regulations issued in 1991. The final regulations (TD 8823), were published in the Federal Register on July 2, 1999 (64 FR 36091).

In response to the Federal Register Notice (80 FR 4963), dated January 29, 2015, we received no comments relating to these final regulations.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT

TO RESPONDENTS

No payment or gift has been provided to any respondents.

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)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIA's can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

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 1.1502-21(b)(3)(i) permits a consolidated group to waive the carryback period under section 172 for consolidated net operating losses for any consolidated return year. Section 1.1502-21(b)(3)(ii)(B) permits a group to waive a portion of the carryback period under section 172 for consolidated net operating losses attributable to members acquired from another consolidated group. In each of these cases, a statement evidencing such waiver must be filed by the group. It is estimated that the number of respondents subject to these reporting requirements is 8,000, representing approximately fifteen percent of the number of consolidated groups (which approximates the number of groups that, at any time, may have net operating losses subject to a carryback.) It is estimated that the annual burden per respondent will be fifteen minutes. Thus, the total annual burden will be $8000/4 = 2000$ hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is not any estimated annualized cost to the federal government.

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

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions to the certification statement.

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.