

SUPPORTING STATEMENT
REG-209709-94 (Final-TD 8865)
Amortization of Intangible Property
1545-1671

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Under section 197(f)(9), certain qualifying taxpayers may avoid the application of anti-churning rules of section 197 for transactions between related parties. To avoid the anti-churning rules, the person from whom the taxpayer acquired the intangible property must elect to recognize the gain and to pay a tax on such gain. The regulations provide that the person so electing notify both the Internal Revenue Service and the taxpayer of its election, and provide the Internal Revenue Service with sufficient information to confirm the amount of tax due.

2. USE OF DATA

This information will be used to confirm the parties to the transaction, calculate any additional tax due, and notify the purchaser of the seller's election. The likely respondents are business or other for-profit institutions.

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 whenever 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

The regulations provide that the person so electing notify

both the Internal Revenue Service and the taxpayer of its election, and provide the Internal Revenue Service with sufficient information to confirm the amount of tax due. The Service must collect this information frequently, must assess the tax, and resolve any tax issues properly and timely, so that the taxpayer pays the correct amount of tax legally due.

If the IRS does not collect the information frequently and fails to make timely and accurate assessments, the taxpayer has the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions. They can expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position. Taxpayers generally have the right to take their cases to court if the IRS has not resolved their tax issues properly and timely through its normal channels. If this were to occur, this would be costly to the federal programs and negatively affect policy activities.

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**

A notice of proposed rulemaking (62 FR 2336) was published January 16, 1997, which did not have the paperwork requirement. Public comment was solicited by the NPRM and a public hearing was held on May 15, 1997. No comments were received on the election to recognize gain provision. The final regulation (65 FR 3821) was published in the Federal Register on January 25, 2000, which includes the paperwork requirement.

In response to the **Federal Register Notice** dated May 28, 2015 (80 FR 30543), we received no comments during the comment period regarding REG-209709-94.

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 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 IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs 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 ON INFORMATION COLLECTION

Section 1.197-2(h)(9) requires the party making the election to attach a copy of the election statement to a timely filed Federal income tax return for the taxable year that the election under section 197(f)(9)(B) is effective and to provide written notification of the election to the party acquiring the section 197 intangible. We estimate that no more than 500 taxpayers per year will be affected by this requirement and that they will take about 3 hours to prepare the election statement and provide the required notification. Accordingly, the estimated reporting burden is 1,500 hours.

Estimates of the annualized cost to respondents for the hour burdens are not available at this time.

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 no 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

See below.

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.

OMB Expiration

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, at 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.

We are requesting OMB approval for continued use of the prior version of the form(s) in this clearance package, so that late filers will have the previous versions available to them in future years.