

SUPPORTING STATEMENT

OMB # 1545-2019

TD 9451 - Guidance Necessary To Facilitate Business Election Filing; Finalization of Controlled Group Qualification Rules (TD 9329) and TD 9300- Guidance Necessary To Facilitate Business Electronic Filing.

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Many Federal income tax regulations require taxpayers to attach a statement on or with their Federal income tax returns in order to make an election, or claim the treatment, allowed by that regulation. Some of these regulations further require taxpayers to sign that statement and, in some cases, also require a third party to sign that statement. This signature requirement presents an impediment to taxpayers e-filing these returns. Starting in 2006, large corporations (as defined by the program) are required to e-file their returns. To eliminate this impediment in these regulations, the Treasury Department will publish temporary regulations to amend these regulations by eliminating this signature requirement. Final regulations were release that provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations. This regulation is being published to replace an expiring temporary regulation.

Final regulations published in Treasury decision 9759 contain collection of information requirements in §§1.332-6, 1.351-3, and 1.368-3. This information is required to determine the extent to which a tax-free transfer of property could be subject to the special basis rules in either section 362(e)(1) or section 362(e)(2). The data will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with the statutory requirements. The collection of information is required to prevent the importation of loss into the US tax system and the duplication of loss within the US tax system. The respondents are corporations and their shareholders.

2. USE OF DATA

The collection of information (in the form of an unsigned statement) will be the means by which taxpayers will make an election, or claim the treatment, allowed by a particular regulation. Taxpayers are required to keep all records necessary to report the aggregate basis and aggregate fair-market value of assets received in these transactions. These same records under TD 9329 are used to fulfill the new reporting requirements where the smaller groupings are reported—the basis and value records that had been kept for each asset are still kept, and no additional records are required. The Internal Revenue Service agent will use this information to determine whether to audit this transaction.

T.D. 9300, final regulations revised section 1.170A-11(b)(2) to provide that corporations (effective for taxable years beginning after 12/31/02) could verify certain information regarding charitable contributions by signing the corporate tax return.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Because these regulations remove the signature requirement for statements to be attached on or with Federal income tax returns, taxpayers will be able to e-file such returns.

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

This collection of information will not have a significant impact on a substantial number of small businesses or other small entities.

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

Consequences of less frequent collection on federal programs or policy activities, could result in increased e-file returns, by which taxpayers will make an election, or claim the treatment, allowed by a particular regulation. Also, the collection of information is required to prevent the importation of loss into the US tax system and the duplication of loss within the US tax system.

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

On December 22, 2006, the IRS and the Treasury Department published several temporary regulations, including § 1.1563-1T. See TD 9304 (71 FR 76904), 2007-1 CB 423. Also on December 22, 2006, the IRS and the Treasury Department issued a notice of proposed rulemaking cross-referencing those temporary regulations. See REG-161919-05 (71 FR 76955), 2007-1 CB 463. Section 1.1563-1T was also amended by the publication of a temporary regulation on December 26, 2007. See TD 9369 (72 FR 72929), 2008-6 IRB 394. Also on December 26, 2007, the IRS and Treasury Department issued a notice of proposed rulemaking crossreferencing that temporary regulation.

See REG-104713-07 (72 FR 72970), 2008-6 IRB 409. Section 1.1563-1T republished § 1.1563-1 to conform it to current formatting conventions. It was not intended that any such reformatting constitute a substantive change. See § 3.A of the preamble to TD 9304.

Treasury decision 9304 also removed § 1.1563-1. Section 1.1563-1T provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations. This Treasury decision adopts the proposed regulation § 1.1563-1 with no substantive changes. In addition, this Treasury decision removes the corresponding temporary regulation, § 1.1563-1T.

This Treasury decision does not adopt the other proposed regulations that were published as part of TD 9304. Those proposed regulations are now found in REG-113688-09, and their status will be addressed at a later date. The IRS and the Treasury Department received no written or electronic comments from the public in response to the notice of proposed rulemaking and no public hearing was requested or held.

We received no comments during the comment period in response to the *Federal Register* notice dated February 19, 2016 (81 FR 8594).

On September 9, 2013, the Treasury Department and the IRS issued a notice of proposed rulemaking and several proposed regulations, including §§ 1.332-6, 1.351-3, and 1.368-3. See 78 FR 54971, 2013-44 IRB 449. Treasury decision 9759 adopted the proposed rules with no substantive changes. The Treasury Department and IRS received no written or electronic comments in response to the collection of information requirement contained in these provisions and no public hearing was requested or held.

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

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The revised collection of information in these final regulations is in §§ 1.332-6, 1.351-3, and 1.368-3. By requiring that taxpayers separately report the fair market value and basis of property (including stock) described in section 362(e)(1)(B) and in 362(e)(2)(A) that is transferred in a tax-free transaction, in addition to reporting these in the aggregate, this revised collection of information aids in identifying transactions within the scope of sections 334(b)(1)(B), 362(e)(1), and 362(e)(2) and thereby facilitates the ability of the IRS to verify that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). The respondents will be corporations and their shareholders.

It is estimated that the total annual reporting and recordkeeping burden will be 375,000 hours. The estimated average annual burden per respondent will be approximately 1.66 hours. The estimated number of respondents is 225,000.

T.D. 9300, final regulations (published December 2006) revised section 1.170A-11(b)(2) to provide that corporations (effective for taxable years beginning after 12/31/02) could verify certain information regarding charitable contributions by signing the corporate tax return.

We estimate that approximately 1,000,000 respondents will provide this statement. The estimated annual burden for each taxpayer with respect to collecting and reporting this information on board of directors approval is 15 minutes. The total reporting burden under this regulation is 250,000 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

The revised collection of information in these proposed regulations is in §§1.332-6, 1.351-3, and 1.368-3. By requiring that taxpayers separately report the fair market value and basis of property (including stock) described in section 362(e)(1)(B) and in 362(e)(2)(A) that is transferred in a tax-free transaction, this revised collection of information aides in identifying transactions within the scope of sections 334(b)(1)(B), 362(e)(1), and 362(e)(2) and thereby facilitates the IRS' verification that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). The net result of these changes will result in a decrease in the estimated annual responses by 125,000, while increasing the estimate burden hours by 112,500 hours.

We are making this submission to revise the collection to reflect the issuance of final regulations and to include T.D. 9300, final regulations (published December 2006) revised section 1.170A-11(b)(2) to provide that corporations (effective for taxable years beginning after 12/31/02) could verify certain information regarding charitable contributions by signing the corporate tax return.

We estimate that approximately 1,000,000 respondents will provide this statement. The estimated annual burden for each taxpayer with respect to collecting and reporting this information on board of directors approval is 15 minutes. The total reporting burden under this regulation is 250,000 hours.

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 regulations sunset 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.