

SUPPORTING STATEMENT

OMB No. 1545-2186

TD 9504, Basis Reporting by Securities Brokers and Basis Determination for Stock;

TD 9616, Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options;

TD 9713, Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options;

TD 9750, Basis and Transfer Reporting by Securities Brokers for Debt Instruments and Options.

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6045 of the Internal Revenue Code was amended by section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110-343 (122 Stat. 3765, 3854 (2008)) (the Act). Under section 6045(g), upon the sale of a covered security (for example, stock, debt, or option acquired after a certain date), a broker is required to report the adjusted basis of the security and whether any gain or loss upon the sale of the security is long-term or short-term. This information is reported both to the customer (holder) and the IRS. In addition, the Act added section 6045A, which requires a broker to transfer certain information in connection with a transfer of a covered security to another broker. See section 6045(g)(3) and §1.6045-1(a)(15) to determine if a security is a covered security.

Sections 1.6045-1(c)(3)(xi)(C) (which requires a broker to provide certain information relating to a short sale obligation transferred to another account) and 1.6045A-1 (which requires a transferring broker to provide a statement of information in connection with a transfer of a covered security to another broker) were adopted as final regulations in TD 9504. TD 9504 was preceded by a notice of proposed rulemaking that was published on December 17, 2009, in the Federal Register at 74 FR 67010 (REG-101896-09). The collection of information in §§1.6045-1(c)(3)(xi)(C) and 1.6045A-1 is necessary so that brokers who effect sales of transferred covered securities can determine and report the adjusted basis of the securities and whether any gain or loss with respect to the sale is long-term or short-term in compliance with section 6045(g). In addition, the collection of information is required to comply with the provisions of section 403 of the Act.

A notice of proposed rulemaking relating to information reporting under sections 6045 and 6045A for debt instruments, options, and securities futures contracts was published on November 25, 2011, in the Federal Register at 76 FR 72652 (REG-102988-11). These regulations extended the rules in §§1.6045-1(c)(3)(xi)(C) and 1.6045A-1 to debt instruments, options, and securities futures contracts and required information to be provided by a transferring broker on a transfer statement for these securities. These rules generally were adopted in the final regulations in TD 9616. As a result, the burden associated with the collection of information for these sections was increased. In

addition, as noted above, the collection of information is required to comply with section 6045(g) and the provisions of section 403 of the Act.

The holder of a debt instrument is permitted to make a number of elections that affect how basis is computed. To minimize the need for reconciliation between information reported by a broker to both a customer (holder) and the IRS and the amounts reported on the customer's tax return, the IRS proposed rules relating to these elections (REG-102988-11). These rules generally were adopted in the final regulations in TD 9616. Under §1.6045-1(n), a broker is required to take into account certain specified elections in reporting information to the customer as required under section 6045(g). To assist the broker, under §1.6045-1(n)(5), a customer must provide certain information concerning an election to the broker in a written notification, which includes a writing in electronic format. As a result, because of the burden in §1.6045-1(n)(5), the burden associated with the collection of information in OMB 1545-2186 increased under TD 9616. The collection of information in §1.6045-1(n)(5) is required to comply with section 6045(g) and the provisions of section 403 of the Act.

On March 13, 2015, TD 9713 was published in the Federal Register (80 FR 13233). In TD 9713, §1.6045A-1T required a transferring broker to provide a statement of information in connection with a transfer of a section 1256 option. In addition, §1.6045A-1T required a broker to provide additional information upon the transfer of a debt instrument. The changes were necessary to allow brokers that effect sales of transferred section 1256 options and debt instruments that are covered securities to determine and report the adjusted basis of these securities in compliance with section 6045(g) and section 403 of the Act.

In addition, in TD 9713, under §1.6045-1T(n)(11)(i)(A), unlike the rule in §1.6045-1(n)(5) as adopted in 2013, a broker must not take into account the election under §1.1272-3 in reporting a customer's adjusted basis in a debt instrument. Therefore, a customer is no longer required to notify the broker that the customer has made or revoked an election under §1.1272-3. In addition, under §1.6045-1T(n)(11)(i)(B), a broker must take into account the election under section 1276(b)(2) unless the customer timely notifies the broker that the customer has not make the election. The temporary regulations reverse the assumption in §1.6045-1(n)(5) as adopted in 2013. Because the section 1276(b)(2) election results in a more taxpayer-favorable result than the default ratable method for accruing market discount in most cases, it is anticipated that more customers will want to use this method and these customers will no longer need to notify their brokers that they have made the election.

The temporary regulations in TD 9713 were finalized in TD 9750, which was published in the Federal Register on February 18, 2016. There were no substantive changes.

2. USE OF DATA

The adjusted basis information will be used for audit and examination purposes. The likely respondents are preparers of Form 1099-B who must calculate and report basis. Taxpayers will use basis information provided by brokers to prepare their tax returns. Brokers will also use adjusted basis information to ensure that they are reporting correct amounts of discount and premium on Forms 1099-INT and 1099-OID. Transfer statement information is not furnished to the IRS. The likely respondents are transferring brokers who have to prepare transfer statements. The transfer statement information is furnished so that the broker who ultimately effects the sale of a transferred covered security can report information on Form 1099-B that would otherwise not be known because the selling broker did not originate the purchase of the security or open the short sale for the security. Brokers will use the election information provided by customers to calculate the customer's adjusted basis in a debt instrument.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because transfer statement information is not reported to the IRS. Regulations adopted the statutory requirement that brokers furnish the statement in writing but §1.6045A-1(a)(2) permits brokers to use electronic or other means to furnish information between each other upon their mutual agreement.

Our understanding is that brokers are developing a system for electronic transfer of this information, but there will be some parties to transfers who are unable to use the electronic data transfer system; those parties will send and receive the required information in hard copy.

A customer is required to notify its broker in writing about certain elections related to debt instruments. The final regulations provide that this notification may be made in an electronic format.

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

Less frequent collection could result in incorrect basis information being provided to the IRS and to taxpayers, which would undermine the Congressional intent that brokers report basis for as many securities as possible.

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 was published on December 17, 2009, in the *Federal Register* at 74 FR 67010 (REG-101896-09). The collection of information in §§1.6045-1(c)(3)(xi)(C) and 1.6045A-1 is necessary so that brokers who effect sales of transferred covered securities can determine and report the adjusted basis of the securities and whether any gain or loss with respect to the sale is long-term or short-term in compliance with section 6045(g). In addition, the collection of information is required to comply with the provisions of section 403 of the Act.

A notice of proposed rulemaking was published on November 25, 2011, in the *Federal Register* at 76 FR 72652 (REG-102988-11) relating to information reporting by brokers, transferors, and issuers of securities under section 6045, 6045A, and 6045B for debt instruments, options, and securities futures contracts.

Final regulations (78 FR 23116) were published in the *Federal Register* on April 18, 2013 (TD 9616). These regulations included rules relating to information required by brokers for certain taxpayer elections related to debt instruments and transfer reporting for debt instruments, options, and securities futures contracts. A portion of the burden identified in the April 18, 2013, regulations impacted information collection instruments not claimed under this information collection request.

A notice of proposed rulemaking cross-referencing the 2015 temporary reporting regulations was published on March 13, 2015, in the *Federal Register* at 80 FR 13292 (REG-143040-14 (the 2015 proposed reporting regulations)). A correction to § 1.6045A-1T(f) was published on June 5, 2015 (TD 9713 at 80 FR 31995), delaying the effective date of § 1.6045A-1T(f) from June 30, 2015, to January 1, 2016.

Final regulations (T.D. 9750) were published in the *Federal Register* on Thursday, February 18, 2016 (81 FR 8149). The final regulations relate to information reporting by brokers for transactions involving debt instruments and options, including the treatment of certain holder elections for reporting a taxpayer's adjusted basis in a debt instrument, and transfer reporting for section 1256 options and debt instruments.

Comments related to the burdens imposed in TD 9504, TD 9616, TD 9713, TD 9750 and the related notices of proposed rulemaking to these TDs were solicited, and no comments were received on this topic.

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

Document	26 CFR Part	# Respondents	Total Annual Responses	Total Annual Burden Hours
REG-101896-09 (NPRM #1)	1.6045-1(c)(3)(xi)(C) and 1.6045A-1	30,000	4,000,000	240,000
REG-102988-11 (NPRM #2)	1.6045-1(c)(3)(xi)(C) and 1.6045A-1	30,000	7,000,000	450,000
TD 9616	1.6045-1(n)(5)	11,500	11,500	1,417
TD 9713 and REG-143040-14 (NPRM #4)	1.6045A-1(e) and (f)	7,500	200,000	3,333
	Totals	79,000	11,211,500	694,750

Information collection requirements in §§1.6045-1(c)(3)(xi)(C) and 1.6045A-1 allow brokers that effect sales of transferred covered securities to determine and report the adjusted basis of the securities and whether any gain or loss with respect to the securities is long term, short term, or ordinary (for certain debt instruments). Information collection requirements under §1.6045-1(n)(5) related to notification by a taxpayer to a broker about certain elections related to debt instruments. These elections affect the calculation of basis that the broker eventually will report.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no capital /start-up or ongoing operation/ maintenance cost associated with this information collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

Information collection requirements in §§1.6045-1(c)(3)(xi)(C) and 1.6045A-1 allow brokers that effect sales of transferred covered securities to determine and report the adjusted basis of the securities and whether any gain or loss with respect to the securities is long term or short term. The initial burden of 240,000 hours was for transfer statements related to stock and was included in the last OMB approval.

The first update to the burden was required when the regulations were amended to require transfer statement reporting for debt instruments, options, and securities futures contracts in REG-102988-11. The first update increased the burden by 450,000 hours and was not included in the last OMB approval.

The second update to the burden was required when the regulations were amended to require a customer to provide certain election information to a broker in TD 9616. The second update increased the burden by 1,417 hours and was included in last OMB approval.

The third update to the burden was required when the regulations were amended to require transfer statement reporting for section 1256 options and additional transfer statement information for debt instruments in TD 9713. See §1.6045A-1(e) and (f). The third update increased the burden by 3,333 hours, for a total burden request of 694,750 hours due to program changes.

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.