

Supporting Statement
TD 9633
OMB # 1545-2247

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collection of information in this regulation is in §1.362-4. This information is required to effect an irrevocable election to reverse the general rule in section 362(e)(2). Under the general rule, a transferee corporation is required to reduce its basis in net built-in loss property by the amount of the net loss if the transfer is determined to be a loss duplication transaction; if the election is made, the reduction is instead made to the transferor's basis in the stock received in the transaction.

2. USE OF DATA

The information will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with their agreements and elections. The collection of information is required to obtain a benefit (because taxpayers will only make the election when it is in their mutual interests). The respondents will be shareholders transferring property to controlled corporations.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Transferors will file the election electronically with their 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 merely provides a mechanism whereby, once a transferor and transferee have agreed that it would be mutually advantageous to elect the special basis treatment afforded under section 362(e)(2)(C), the transferor makes the election effective by reporting it on its return. The professional skills that would be necessary to make the election would be the same as those required to prepare, and utilized in preparing, a return for the business.

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

If the IRS did not collect this information, the IRS would not be able to ensure that taxpayers are preparing their returns in accordance with their agreements and elections.

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

The core rules in these regulations were first proposed to the public in Notice 2005-70, 2005-2 CB 694, published on October 11, 2005. The IRS received numerous inquiries evidencing that taxpayers found the rules helpful and appropriate, but also evidencing the need for further, more comprehensive guidance. A notice of proposed rulemaking was published on October 23, 2006 (71 FR 62067), providing additional guidance. Again, taxpayers' comments evidenced the need for expanded guidance. The comments and questions were incorporated and addressed in these regulations. No formal public hearing was requested or held with respect to the Notice or the notice of proposed rulemaking.

In response to the Federal Register notice dated June 3, 2016 (81 FR 35818), we received no comments during the comment period regarding TD 9633.

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 approximate burden will be 0.75 hours per response. At an estimated 100,000 responses per year, the burden is approximately 75,000 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 are no known annualized costs 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 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 for this collection.

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.