

SUPPORTING STATEMENT

Revenue Procedure Granting Automatic Consent to change certain elections relating to the apportionment of interest expense and research and experimental expenditures

Revenue Procedure 2006-42
OMB Control Number 1545-2040

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 199 of the Code, enacted as part of the American Jobs Creation Act of 2004, provides for a deduction attributable to domestic production activities. The deduction is equal to 9 percent (3 percent in the case of taxable years beginning in 2005 or 2006, and 6 percent in the case of taxable years beginning in 2007, 2008, or 2009) of the lesser of (A) the qualified production activities income (QPAI) of the taxpayer for the taxable year, or (B) taxable income (determined without regard to section 199) for the taxable year (or, in the case of an individual, adjusted gross income (AGI)).

To determine QPAI for a taxable year, a taxpayer must subtract from its domestic production gross receipts (DPGR) the cost of goods sold allocable to DPGR and other expenses, losses, or deductions (deductions) that are properly allocable to DPGR. Section 1.199-4(d) provides that a taxpayer generally must determine deductions allocable to DPGR, or to gross income attributable to DPGR, under the section 861 regulations.

The section 861 regulations provide guidance for the allocation and apportionment of deductions in determining the taxable income of a taxpayer from specific sources and activities under sections of the Code, referred to as operative sections. Section 199 is treated as an operative section for purposes of the section 861 regulations. See §1.199-4(d)(1).

Where more than one operative section applies, the taxpayer may be required to apply the section 861 regulations separately for each applicable operative section. In that case, §1.861-8(f)(2)(i) provides that the taxpayer is required to use the same method of allocation and the same principles of apportionment for all operative sections. See also §1.199-4(d)(1).

The preamble to the final regulations under section 199 states that the Treasury Department and the IRS intend to issue a revenue procedure granting automatic consent to change elections under §§1.861-8T(c)(2) and 1.861-9(i)(1), respectively, to apportion interest expense and under §1.861-17(e) to apportion research and experimental expenditures (R&E). Accordingly, this document sets forth the administrative procedure under

which an eligible taxpayer may obtain automatic consent to change (a) from the fair market value method under §1.861-8T(c)(2) or from the alternative tax book value method under §1.861-9(i)(1) to apportion interest expense or (b) from the sales method or the optional gross income methods under §1.861-17(c) and (d) to apportion R&E.

2. USE OF THE DATA

There are two collections of information in this document. The first collection of information relates to the requirement that a statement be filed with the IRS as an attachment to the foreign tax credit forms for corporations (Form 1118) and non-corporate entities (Form 1116). Filing these statements is a condition to obtaining automatic consent to change (a) from the fair market value method under §1.861-8T(c)(2) or from the alternative tax book value method under §1.861-9(i)(1) to apportion interest expense or (b) from the sales method or the optional gross income methods under §1.861-17(c) and (d) to apportion R&E under the revenue procedure.

The second collection of information relates to the requirement that all taxpayers availing themselves of the benefit of the procedure maintain all necessary documentation to establish its change in method or methods and its eligibility for the benefits of this revenue procedure. These collections are necessary to enable the IRS to determine whether a taxpayer is entitled to an automatic method change and the years for which the change in method or methods is being adopted. Both collections occur on an occasional basis.

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. The information collection being reported under 1545-2040 only imposes recordkeeping burden.

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

The collection of information relates to the requirement that all taxpayers availing themselves of the benefit of the procedure maintain all necessary documentation to establish its change in method or methods and its eligibility for the benefits of this revenue procedure. These collections are necessary to enable the IRS to determine whether a taxpayer is entitled to an automatic method change and the years for which the change in method or methods is being adopted. The consequences are that the IRS will have to spend more taxpayer assistance resources to collect this data through other means. This will compromise the Agency's ability to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH OMB GUIDELINES

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

We received no comments during the comment period in response to the *Federal Register* notice dated September 29, 2016 (81 FR 67059).

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 U.S.C. § 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No Personally Identifiable Information (PII) is being collected by the agency.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Burden Estimation:

There are two collections of information in this revenue procedure both of which are found in section 4 of the document. Section 4.02 requires corporations and non-corporate taxpayers seeking to change (a) from the fair market value method under §1.861-8T(c)(2) or from the alternative tax book value method under §1.861-9(i)(1) to apportion interest expense or (b) from the sales method or the optional gross income methods under §1.861-17(c) and (d) to apportion R&E under the revenue procedure to file a supporting statement with their Forms 1118 and 1116, respectively, in order to obtain the benefit of the procedure. This is a temporary benefit, effective for either (a) a taxpayer's first taxable year beginning after December 31, 2004 (the taxpayer's 2005 taxable year); or (b) a taxpayer's taxable year immediately following the taxpayer's 2005 taxable year, but, in such case, a taxpayer will not be provided automatic consent to change any election that first took effect with respect to the taxpayer's 2005 taxable year available only for tax years beginning between March 26, 2004 and March 25, 2006. In addition, this revenue procedure is effective only if the taxpayer attaches the statement(s) required to Form 1118 or Form 1116, whichever is applicable, by the later of (i) one year after this revenue procedure is published in the Federal Register or (ii) the due date (including extensions) of the taxpayer's income tax return to which the statement(s) relates. We estimate that annually, approximately 125 corporate respondents filing Form 1118 will be subject to this reporting requirement and that it will take approximately one-half hour to prepare the information. The frequency of response for these respondents is occasional and the estimated reporting burden is approved under OMB Control Number 1545-0123. We estimate that annually, approximately 75 non-corporate respondents filing Form 1116 will be subject to this reporting requirement and that it will take one-half hour to prepare the information. The frequency of response for these respondents is occasional and the estimated reporting burden for Form 1116 is approved under 1545-0121. The estimated number of respondents is based on internal statistical information relating to Form 1118 and 1116 filers subject to the interest and R&E apportionment rules of the Internal Revenue Code and regulations thereunder.

Section 4.03 requires, as a condition to obtaining automatic consent to change valuation methods, that all taxpayers utilizing the procedure must maintain all documentation necessary to establish its change in method or methods and its eligibility for the benefits of this revenue procedure. We estimate that, annually approximately 125 corporate taxpayers and approximately 75 non-corporate taxpayers will be subject to this recordkeeping requirement to maintain this documentation.

	Time per Responses	Total Response	Burden
Rev. Proc. 2006-42	200	30 minutes.	100 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no annual start-up cost 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

We believe that displaying the OMB expirations 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 and 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.