

## **SUPPORTING STATEMENT**

### **Internal Revenue Service**

Safe-harbor lease information returns IRC 26 CFR 1.168(f)(8)-1T

OMB No. 1545-0923

#### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

As enacted by the Tax Reform Act of 1984, section 168(j)(4)(E) (now section 168(h)(2)(E)) provides that certain organizations formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12) (relating to certain cooperatives) will not be treated as a tax-exempt entity with respect to any property if such organization irrevocably elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

As enacted by the Tax Reform Act of 1986, section 168(h)(6)(F) provides for an irrevocable election by the tax-exempt controlled entity to treat any gain recognized by the tax-exempt parent on any disposition of an interest in the tax-exempt controlled entity (and any dividends or interest received or accrued from the tax-exempt controlled entity) as unrelated business taxable income under section 511 in order for a tax-exempt controlled entity to not be treated as a tax-exempt entity (or as a successor to a tax-exempt entity) for purposes of section 168(h).

Internal Revenue Code § 26 Code of Federal Regulation 1.168(f)(8)-1T implements this Congressionally enacted option by establishing a procedure for making the above elections. The regulation also requires that parties to a safe-harbor lease of qualified mass commuting vehicles must provide certain information with their tax return. In general, Form 6793, Safe Harbor Lease Information Return, is obsolete for safe harbor lease agreements executed after June 30, 1985. The parties to a safe harbor lease agreement under section 168(f)(8) [26 USCS § 168(f)(8)] executed after June 30, 1985 must file a statement with their timely filed return.

#### **2. USE OF DATA**

The Internal Revenue Service will use the information provided to monitor compliance with the tax-exempt entity leasing provisions of section 168(h) in order to ensure compliance with the Safe Harbor Information return requirements.

#### **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. We have no plans at this time to offer electronic filing because of the low volume compared to the cost of electronic enabling.

#### **4. EFFORTS TO IDENTIFY DUPLICATION**

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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**

A less frequent collection of the information will prevent the IRS from making a determination of the compliance with the requirements outlined in section 884 of the Code and causing the IRS to be unable to meet its mission.

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**

In addition to temporary regulation TD 8033 (50 FR 27222), a cross-referencing notice of proposed rulemaking (REG-209274-85), was published in the Federal Register on July 2, 1985 (50 FR 27297), which provided the opportunity for public comment. A public hearing was held on November 25, 1985.

We received no comments during the comment period in response to the Federal Register notice dated January 11, 2017 (82 FR 3383).

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**

Section 301.9100-6T(a)(1) of the temporary Income Tax Regulations (temporary regulations), which was formerly designated as section 5h.4(a) of the temporary regulations, sets forth general rules for the time and manner of making various elections under the Deficit Reduction Act of 1984 (the Act). Section 301.9100-6T(a)(3)(i) of the temporary regulations provides that the elections specified in section 301.9100-6T(a)(1) are to be made by attaching a statement to the tax return (or amended return) for the taxable year in which the election is made.

Sections 31(a) and 31(g)(16) of the Act provide for an election under 1954 Code section 168(j)(4)(E)(ii), which was redesignated as 1986 Code section 168(h)(2)(E), by certain organizations which were exempt from tax under Code section 501(c)(12) (and which are no longer tax-exempt) to avoid the "5-year look-back" rule of 1954 Code section 168(j)(4)(E)(i), which was redesignated as 1986 section 168(h)(2)(E)(i). Under section 1.168(j)-1T (Q & A-10) of this regulation, the organization must elect to be treated as a taxable organization during the tax-exempt use period and it must elect to be taxed on certain exempt arbitrage profits with respect to property placed in service after May 23, 1983, or leased after such date. We estimate that approximately 4,000 elections will be made per year and that it will take approximately .5 hours to complete. The total burden for this election is 2,000 hours.

Under section 1.168(f)(8)-1T of this regulation, the parties to a safe-harbor lease agreement concerning qualified mass commuting vehicles must file a statement with their income tax return providing certain information regarding the lease. We estimate that 2,000 taxpayers will prepare this statement and that it will take 0.5 hours to complete. The burden for this requirement is 1,000 hours.

Section	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Annual Burden
1.168(j)-1T	4,000	1	4,000	0.50	2,000
1.168(f)(8)-1T	2,000	1	2,000	0.50	1,000
TOTALS	6,000	1	6,000	0.50	3,000

Please continue to assign OMB number 1545-0923 to these regulations.

1.168(f)(8)-1T

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our Federal Register notice dated January 11, 2017, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not

receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

There is no estimated annualized cost to the federal government.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the burden previously reported to 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 regulation sunsets 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.