

Supporting Statement
Internal Revenue Service
Revenue Procedure 2007-35
Statistical Sampling for Purposes of Internal Revenue Code Section 199
OMB Control No. 1545-2072

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The revenue procedure provides guidance for determining when statistical sampling may be used for purposes of §199 of the Internal Revenue Code and establishes acceptable statistical sampling methodologies.

Under §1.199-1(d)(1) of the Income Tax Regulations, a taxpayer must determine the portion of its gross receipts for the taxable year that is domestic production gross receipts (DPGR) and the portion of its gross receipts that is non-DPGR.

Section 1.199-1(d)(2) provides that the factors taken into consideration in determining whether the taxpayer's method of allocating gross receipts between DPGR and non-DPGR is reasonable include whether the taxpayer uses the most accurate information available; the relationship between the gross receipts and the method used; the accuracy of the method chosen as compared with other possible methods; whether the method is used by the taxpayer for internal management or other business purposes; whether the method is used for other Federal or state income tax purposes; the time, burden, and cost of using alternative methods; and whether the taxpayer applies the method consistently from year to year.

Section 1.199-3(d)(1) provides that, for purposes of §§1.199-1 through 1.199-9, a taxpayer determines, using any reasonable method that is satisfactory to the Secretary based on all of the facts and circumstances, whether gross receipts qualify as DPGR on an item-by-item basis (and not, for example, on a division-by-division, product line-by-product line, or transaction-by-transaction basis).

Section 1.199-4(b)(2)(i) provides that a taxpayer must use a reasonable method that is satisfactory to the Secretary based on all of the facts and circumstances to allocate cost of goods sold (CGS) between DPGR and non-DPGR. Whether an allocation method is reasonable is based on all of the facts and circumstances including whether the taxpayer uses the most accurate information available; the relationship between CGS and the method used; the accuracy of the method chosen as compared with other possible methods; whether the method is used by the taxpayer for internal management or other business purposes; whether the method is used for other Federal or state income tax purposes; the availability of costing information; the time, burden, and cost of using alternative methods; and whether the taxpayer applies the

method consistently from year to year.

For purposes of Internal Revenue Code (IRC) §199, the use of statistical sampling will be considered a reasonable method that is satisfactory to the Secretary to the extent the sampling methodology meets the requirements of the revenue procedure. The collection of information is required to ensure compliance with the statistical sampling methodology contained in the revenue procedure. The information will be used to evaluate compliance with the procedures described in the revenue procedure.

2. USE OF DATA

The information collection is required so that a taxpayer may use statistical sampling methodology to claim a deduction under IRC §199 and the IRS can review the records to determine the accuracy of the deduction amount.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998. Since, there is no reporting requirement associated with Rev. Proc. 2007-35, electronic filing is not applicable.

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 is no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

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

Consequences of less frequent collection on federal programs or policy activities would result in the Service unable to determine the correct amount of deduction a taxpayer may claim under IRC § 199, thereby engendering the inability of the IRS 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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Rev. Proc. 2007-35.

We received no comments during the comment period in response to the **Federal Register** notice (82 FR 17522), dated April 11, 2017.

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 collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information is in Appendix B of the revenue procedure. We estimate that there are 300 respondents who will use the statistical sampling methodology contained in the revenue procedure to determine their domestic production gross receipts (DPGR). We estimate that it will take an average of 8 hours (between 6 to 10 hours) for each respondent (taxpayer) to comply with the recordkeeping requirements in Appendix B of the revenue procedure for a total burden estimated to be 2,400 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Average Hours per Response	Total Burden
IRC § 199	Rev. Proc. 2007-35 Appendix B	300	1	300	8 hrs.	2400

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs and costs of operation, maintenance, and purchase of services 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 to the 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 revenue procedure sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of 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.