

Internal Revenue Service
SUPPORTING STATEMENT
Internal Revenue Code
OMB 1545-1493
T.D. 8684

Treatment of Gain From the Disposition of Interest in Certain Natural Resource Recapture Property by S
Corporations and Their Shareholders

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1254 of the Internal Revenue Code provides rules for determining the amount of gain that is treated as ordinary income upon the disposition of certain natural resource recapture property. Section 1254(b)(2) provides that in the case of the sale or exchange of stock in an S corporation, rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in section 1254(a)(1)(A).

Section 1.1254-4(c)(1) of the regulations provides as a general rule that any gain recognized by a shareholder upon a sale or exchange of S corporation stock is treated as ordinary income to the extent of the shareholder's section 1254 costs (with respect to the shares sold or exchanged). However, section 1.1254-4(c)(2) provides that the general rule does not apply to any portion of the gain recognized on the sale or exchange of the stock that the taxpayer establishes is not attributable to section 1254 costs. The portion of the gain recognized that is not attributable to section 1254 costs is that portion of the gain recognized that exceeds the amount of ordinary income that the shareholder would have recognized under section 1254 (with respect to the shares sold or exchanged) if, immediately prior to the sale or exchange of the stock, the corporation had sold at fair market value all of the corporation's property the disposition of which would result in the recognition by the shareholder of ordinary income under section 1254.

Treasury Decision 8684 paragraph 5(B) amended Treasury Regulation 1.1254-4 to establish that a portion of the gain recognized is not attributable to a shareholder's section 1254 costs so as to qualify for the exception contained in paragraph (c) (2) (i) (A) of this section, the shareholder must attach to the shareholder's tax return a statement detailing the shareholder's share of the fair market value and basis, and the shareholder's section 1254 costs, for each of the S corporation's natural resource recapture properties held immediately before the sale or exchange of stock, the corporation had sold at fair market value all of the corporation's property the disposition of which would result in the recognition by the shareholder of ordinary income under section 1254.

2. USE OF DATA

In order to establish that a portion of the gain recognized upon a sale or exchange of stock in the S corporation is not attributable to the shareholder's section 1254 costs (and therefore not treated as ordinary income), the shareholder must attach a statement to the shareholder's tax return detailing the shareholder's share of the fair market values and bases, and the shareholder's section 1254 costs, for each of the S corporation's natural resource recapture properties held immediately before

the sale or exchange of the stock. The statement with the required information is necessary for the Internal Revenue Service to monitor compliance with the statutory and regulatory 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. IRS intends to offer electronic filing to the extent it is practicable however in this case it isn't practicable because of the evaluative nature of the determination.

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

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

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

A less frequent collection of the information could negatively affect the accuracy of federal tax compliance with respect to natural resource recapture property held by the S corporation upon a sale or exchange of the S corporation stock during the taxable year.

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

We received no comments during the comment period in response to the Federal Register notice dated September 22, 2017 (82 FR 44490).

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

There is no sensitive personally identifiable information (PII) in this collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1254 of the Internal Revenue Code provides rules for determining the amount of gain that is treated as ordinary income upon the disposition of certain natural resource recapture property. Section 1.1254(c)(2) provides that gain recognized on the sale or exchange of the stock in an S corporation is not treated as ordinary income if the taxpayer establishes that the gain is not attributable to section 1254 costs. The shareholder may establish that the gain is not attributable to section 1254 costs by attaching a statement to the shareholder's return setting forth certain necessary information. We estimate that annually approximately 1,000 taxpayers will be affected and that will take approximately 1 hour to prepare the required information. Thus, the estimated total annual burden is 1,000 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
Treasury Reg. 1.1254-4	Attachment to return	1000	1	1000	1	1000
Totals				1000		1000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

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 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.