

Internal Revenue Service
SUPPORTING STATEMENT
1545-2183

**Transfers by Domestic Corporations That Are Subject to Section 367(a)(5);
Distributions by Domestic Corporations That Are Subject to Section 1248(f).
(TD 9614 & 9760)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

TD 9614 contains final and temporary regulations that apply to transfers of certain property by a domestic corporation to a foreign corporation in certain nonrecognition exchanges, or to distributions of stock of certain foreign corporations by a domestic corporation in certain nonrecognition distributions. The final regulations also establish reporting requirements for property transfers and stock distributions to which the final regulations apply. The regulations affect domestic corporations that transfer property to foreign corporations in certain nonrecognition transactions, or that distribute the stock of certain foreign corporations in certain nonrecognition distributions, and certain domestic shareholders of those domestic corporations.

The collections of information are in §§ 1.367(a)–7(c) and (e)(2), 1.367(a)–8(c), 1.1248(f)–2(a)(3), (b)(1) and (c)(1), and 1.6038B–1(c)(6). The collections of information are mandatory. The likely respondents are domestic corporations.

TD 9760 contains final regulations under sections 367, 1248, and 6038B of the Internal Revenue Code (Code). These regulations finalize the elimination of one of two exceptions to the coordination rule between asset transfers and indirect stock transfers for certain outbound asset reorganizations. The regulations also finalize modifications to the exception to the coordination rule for section 351 exchanges so that it is consistent with the remaining asset reorganization exception. In addition, the regulations finalize modifications to the procedures for obtaining relief for failures to satisfy certain reporting requirements. Finally, the regulations finalize certain changes with respect to transfers of stock or securities by a domestic corporation to a foreign corporation in a section 361 exchange.

USE OF DATA

The regulations affect domestic corporations that transfer property to foreign corporations in certain transactions (exchanges described in section 361(a) or (b) (section 361 exchange), or that distribute the stock of certain foreign corporations, and certain shareholders of such domestic corporations. The regulations are necessary, in part, to provide guidance on changes to the law made by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647, 102 Stat. 3342). The

information and data that is collected will be used to verify that the reporting requirements for property transfers and stock distributions to which the final regulations are being met.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS publication, 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 has no plans at this time to offer electronic filing because of this is not a tax form.

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

A less frequent collection would mean the IRS would not be able to verify that the reporting requirements for property transfers and stock distributions to which the final regulations are being met.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFE 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

On August 20, 2008, the IRS and Treasury Department issued proposed regulations under sections 367, 1248, and 6038B of the Code concerning transfers of property by a domestic corporation to a foreign corporation in an exchange described in section 361(a) or (b) (section 361 exchange), and certain nonrecognition distributions of

stock of a foreign corporation by a domestic corporation (REG-209006-89;73 FR 49278, 2008-41 IRB 867).

A correction to the proposed regulations was published on September 29, 2008, in the Federal Register (73 F.R. 56535). No public hearing on the proposed regulations was requested or held; however, numerous comments were received.

After considering the comments received, the IRS and Treasury Department adopt the issued TD 9760 with modifications, as final regulations, March 22, 2016 (81 FR 15159).

In response to the Federal Register notice dated October 17, 2017, (82 FR 48314) we received no comments during the comment period regarding TD 9614 and TD 9760.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No gifts or payments are being provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under Treas/IRS 24.046-Customer Account Data Engine Business Master File and Treas/IRS 34.037 Audit Trail and Security Records System. The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems. __

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
1.367	Transfers by domestic corporations	305	1	305	10.69	3260
Totals				305		3260

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 burden. The agency is submitting this request as an extension without change of a currently approved collection.

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

IRS believes 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.

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.