

**SUPPORTING STATEMENT
Internal Revenue Service (IRS)**

**Limitations on net operating loss carryforwards and certain built-in losses following ownership change
T.D. 8529
OMB Number 1545-1275**

31552. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 382 (1) (5) is intended to provide relief from the application of the section 382 limitation for bankruptcy reorganizations in which the pre-change shareholders and qualified creditors maintain a substantial continuing interest in the loss corporation. Under section 382 (1) (5) (E), only certain kinds of indebtedness may be counted toward the stock ownership requirements that must be met in order to qualify for the benefits of section 382 (1) (5). The regulations provide a special rule for determining whether certain indebtedness is qualified indebtedness and elections to apply the final regulations retroactively and revoke a prior section 382 (1) (6) election.

31553. USE OF DATA

The reporting requirements are to be performed by the loss corporation and beneficial holders of indebtedness of the loss corporation. The information will be used to determine whether indebtedness is qualified under section 382 (1) (5) (E) and whether the loss corporation elects to apply the regulations retroactively or revoke a prior section 382 (1) (6) election.

31554. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing is not currently available due to the low number of filers. IRS has determined that the relatively low volume does not justify the cost of electronic enabling. 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.

31555. EFFORTS TO IDENTIFY DUPLICATION

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

31556. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is no burden on small businesses or other small entities 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

The information required is needed to verify compliance with Section 382 of the Internal Revenue Code of the Treasury Regulations. A less frequent collection of taxes and tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code and hinder the IRS from meeting 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 response to the Federal Register notice dated December 4, 2017 (82 FR 57327), we received no comments during the comment period regarding these regulations.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Individual Master File (IMF)" and a Privacy Act System of Records notice (SORN) has been issued for these systems under Treas/IRS 24.030 - Individual Master File. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>

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.

This is an attachment to the Federal tax return. The Privacy Act statement associated with this attachment is listed in the Federal tax return instructions.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.382-9 (d) (2) (iii) requires the loss corporation to determine that debt that it treats as

qualified debt has been owned for the requisite period by the same beneficial owner who owns the debt immediately before the ownership change. To make this determination, the loss corporation may rely on a statement by a beneficial owner regarding the amount of the beneficial owner has owned the debt. The loss corporation may also rely on a statement by a beneficial owner of the debt that states it is not subject to the special rule of section 1.382-9(d) (14) concerning debt that is a large portion of the creditor’s assets. It is estimated that 600 respondents will make 1 response each, which is estimated to take 10 minutes to 1 hour, depending on individual circumstances, with an estimated average of 15 minutes to prepare, for a total estimated reporting burden of 150 hours.

Section 1.382-9(d) (6) (ii) requires a loss corporation to file an election, and an amended return if appropriate, if the loss corporation wants to apply the final regulations to transactions that occurred before the final regulations were filed and if the loss corporation wants to revoke a prior section 382 (1) (6) election. It is estimated that 50 respondents will make 1 response each, which is estimated to take 10 minutes to 2 hours, depending on individual circumstances, with an estimated average of 1 hour to prepare, for a total estimated reporting burden of 50 hours.

26 CFR	Description	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
1.382-9 (d) (2) (iii)	statement by a beneficial owner regarding the amount of the beneficial owner has owned the debt	600	1	600	.25	150
1.382-9(d) (6) (ii)	Election and amended return if appropriate	50	1	50	1	50
		650		650		200

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.

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

The 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 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.