

SUPPORTING STATEMENT

Internal Revenue Service

TD 9759- Limitations on the Importation of Net Built-In Losses, TD 9451 - Guidance Necessary to Facilitate Business Election Filing; Finalization of Controlled Group Qualification Rules, TD 9329- Guidance Necessary to Facilitate Business Electronic Filing and Burden Reduction, TD 9304- Guidance Necessary to Facilitate Business Electronic Filing Under Section 1561

OMB Control Number 1545-2019

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Many Federal income tax regulations require taxpayers to attach a statement on or with their Federal income tax returns in order to make an election, or claim the treatment, allowed by that regulation. Some of these regulations further require taxpayers to sign that statement and, in some cases, also require a third party to sign that statement. This signature requirement presents an impediment to taxpayers e-filing these returns. Starting in 2006, large corporations (as defined by the program) are required to e-file their returns. To eliminate this impediment in these regulations, the Treasury Department publish temporary regulations to amend these regulations by eliminating this signature requirement. Final regulations were release that provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations.

Treasury decision 9304 under section 1561(a) provides that the *component members* of a *controlled group of corporations* must divide the amount of the accumulated earnings credit (the credit) equally unless the Secretary prescribes regulations permitting an unequal allocation of that amount. However, § 1.1561-2(c) requires that they divide that amount equally. The IRS and Treasury Department have concluded that they no longer will require such members to divide that amount equally. Therefore, the temporary regulations now provide that the component members of a controlled group may choose to allocate the amount of that credit unequally among themselves if they have an apportionment plan in effect.

Treasury decision 9329 contains final regulations under sections 302, 331, 332, 338, 351, 355, 368, 381, 382, 1081, 1221, 1502, 1563 and 6012 that affect taxpayers filing Federal income tax returns. They simplify, clarify, or eliminate reporting burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns.

Treasury decision 9451 contains final regulation that provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations. The collection of information is in § 1.1563-1(c)(2). The information is required if a taxpayer or taxpayers could be a member of more than one brother-sister controlled group and does not elect which group to be a member of. In that case, the IRS would designate a group.

Final regulations published in Treasury decision 9759 contain collection of information requirements in §§1.332-6, 1.351-3, and 1.368-3. This information is required to determine the

extent to which a tax-free transfer of property could be subject to the special basis rules in either section 362(e)(1) or section 362(e)(2). The data will be used by the Internal Revenue Service to ensure that taxpayers are preparing their returns in accordance with the statutory requirements. The collection of information is required to prevent the importation of loss into the US tax system and the duplication of loss within the US tax system. The respondents are corporations and their shareholders.

2. USE OF DATA

TD 9304, regulations provide guidance to taxpayers regarding how to allocate the amounts of tax benefit items under section 1561(a) amongst the component members of a controlled group of corporations which have an apportionment plan in effect. TD 9329, contains final regulations that simplify, clarify, or eliminate reporting burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns. TD 9451, provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations. TD 9759, provide guidance for preventing the importation of loss when a corporation that is subject to U.S. income tax acquires loss property tax-free in certain transactions and the loss in the acquired property accrued outside the U.S. tax system by requiring the bases of the assets received to be equal to value.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Because these regulations remove the signature requirement for statements to be attached on or with Federal income tax returns, taxpayers will be able to e-file such returns.

4. EFFORTS TO IDENTIFY DUPLICATION

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

5. 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

Consequences of less frequent collection on federal programs or policy activities, could result in taxpayers not reporting the correct amount of the fair market value of any property (including stock) received and the basis of any property (including stock) surrendered in the transactions and thereby facilitates the ability of the IRS to verify that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). Also, the collection of information is required to prevent

the importation of loss into the US tax system and the duplication of loss within the US tax system.

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 Form 1041.

In response to the *Federal Register* notice dated March 06, 2018 (83 FR 9576), we received no comments during the comment period regarding TDs 9304, 9329, 9451 and 9759.

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

The revised collection of information in these final regulations is in §§ 1.332–6, 1.351–3, and 1.368–3. By requiring that taxpayers separately report the fair market value and basis of property (including stock) described in section 362(e)(1)(B) and in 362(e)(2)(A) that is transferred in a

tax-free transaction, in addition to reporting these in the aggregate, this revised collection of information aids in identifying transactions within the scope of sections 334(b)(1)(B), 362(e)(1), and 362(e)(2) and thereby facilitates the ability of the IRS to verify that taxpayers are complying with sections 334(b)(1)(B), 362(e)(1), and 362(e)(2). The respondents will be corporations and their shareholders.

Burden estimates are as follows:

Authority	Document	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
§§1.332-6, 1.351-3 and 1.368-3	TD 9759	225,000	1	225,000	1.67	375,000

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

The change in burden estimates are due to the removal of TD 9300 (previously discontinued under OMB# 1545-1868 but now the burden is reported under 1545-0123, U. S. Business Income Tax Return) and discontinued in this collection to avoid duplication. The TD 9300 was included in the previously approved collection by error, IRS has corrected the error by removing the TD 9300 from this collection, which has resulted in a decrease in the estimated annual responses by 1,000,000, also, decreasing the estimate burden hours by 250,000 hours.

	Title	Status	Responses	Hours
Previously approved Total	1545-2019	Approved	1,225,000	625,000
	TD 9759	Modified by adding TD documents for	225,000	375,000

		reference – no burden change		
	TD 9300	Removed	(1,000,000)	(250,000)
New Requested Total			225,000	375,000

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 regulations sunset 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.